

**Arizona Department of Transportation
Intermodal Transportation Division**

**Right of Way
Procedures Manual**

July 1, 2006



PROJECT MANAGEMENT SECTION

Org. 9390

Rev. 01/26/07



Arizona Department of Transportation

Intermodal Transportation Division

Right of Way Group

Transmittal Letter Date: July 1, 2006

**TO: Interested Individuals and Each Holder of the Right of Way Group
 Procedures Manual**

Attached is the most recent Procedures Manual for the Arizona Department of Transportation, Right of Way Group. As you are viewing the electronic (PDF) version of the manual, hyperlinks have been added allowing you to quickly navigate to the various sections. At the end of each Section and Exhibit you will be given further directions.

Should you have any questions please contact our office directly at (602) 712-7316 or scorrales@azdot.gov.

A handwritten signature in black ink, reading "Sabra J. Mousavi", is written over a horizontal line.

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August 29, 2006

In Reply Refer To: HRW
File:410.1
Right of Way Manual Certification

Mrs. Sabra Mousavi, Chief ROW Agent
Arizona Department of Transportation
205 South 17th Avenue
Phoenix, Arizona 85009

Dear Mrs. Mousavi:

States which receive Federal-Aid funding from the Highway Trust Fund are required to maintain a manual describing its right-of-way organization, policies, and procedures. The guidelines for this manual are detailed in Title 23 CFR 710.201 (c). Beginning on January 1, 2001 and every five years thereafter, the manual will be certified by the Federal Highway Administration (FHWA). The manual shall be updated periodically to reflect changes in the operations and submit the updated material to the FHWA for approval.

The manual was submitted to FHWA for approval in January, 2006. Several months of extensive reviews with subsequent corrections have been accomplished. Realizing the manual will have continual updates/revisions and observed technical corrections will be incorporated; the FHWA finds the manual to be materially in compliance with Federal regulations. Therefore, by this letter, the FHWA is certifying the Arizona Department of Transportation's Right of Way Manual to be in compliance with Federal regulations as of August 21, 2006.

Sincerely yours,

Robert E. Hollis
Division Administrator



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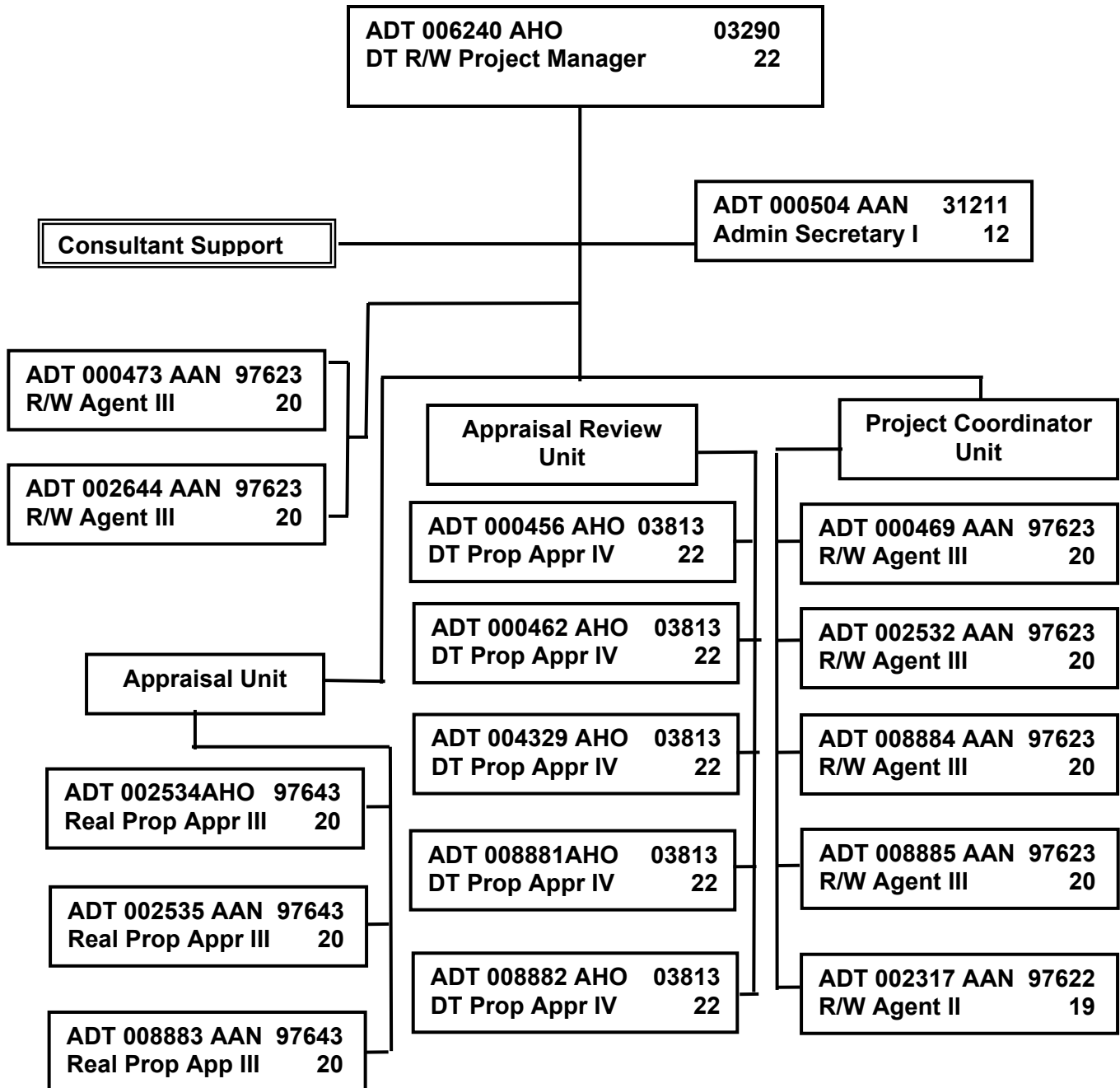
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Arizona Department of Transportation
Right of Way Group
Org. 9390

September 2, 2006



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Chapter 1 Organization, Responsibilities and General Procedures

1.01 Purpose

The purpose of this chapter is to describe the organization and responsibilities of the Project Management Section in the Right of Way Group.

1.02 Basic Responsibilities

Project Management Section is responsible for, but not necessarily limited to, the following:

- a. Coordinating and scheduling the project activities of the Right of Way Group for the timely acquisition of rights of way
- b. Coordinating the clearing of construction projects relative to right of way requirements
- c. Appraisals / Market Analysis
- d. Appraisal review
- e. Advance acquisition program
- f. Local agency assistance program
- g. Red letter program
- h. Provide Project Estimates

1.03 Organization

Right of Way Project Management Section consists of three units: Project Coordination, Appraisal and Appraisal Review.

The Project Management Section Manager is responsible for the management, operation, and production of this Section. In the absence of the Manager, a lead agent will be designated by the Manager, to assume the manager's duties and responsibilities.

1.04 General Procedures

The Project Coordination Unit coordinates all right of way activities associated with a highway construction project. Their involvement begins prior to the project scoping process and continues through the construction of the project. This includes attending public and project team meetings, providing input for project scope, schedules and budgets, provide cost estimates when necessary, coordinate all right of way activities; maintain the project and parcel inventories; preparing reports as requested from Administration and other offices of the Intermodal Transportation Division; preparing status reports; providing right of way project clearances and corresponding with other governmental agencies.

The Appraisal Unit provides a real property appraisal and market analysis to facilitate right of way acquisition, exchanges and budget analysis, as well as litigation support to the Attorney General's Office.

The Appraisal Review Unit determines just compensation for right of way transactions through the review of real property appraisals. Additionally, this unit coordinates appraisal and appraisal review contract services with ADOT procurement.

1.05 Organizational Chart - Right of Way Project Management Section

The current Table of Organization is located in the main table of contents ([Org. 9390](#)).

Chapter 2 Project Control Team Procedures

2.01 Purpose

The purpose of this chapter is to describe the functions, responsibilities, and general operating procedures of the Project Coordination Unit of Right of Way Project Management Section.

2.02 Primary Function

The primary functions of the Project Coordination Unit are to schedule, monitor and control the right of way activities and necessary functions for the timely acquisition of all right of way required to meet construction schedules and other transportation purposes.

2.03 Responsibilities

The Project Coordination Unit is generally responsible for the following:

- a. Participation in the development of the project design scope
- b. Manage the project right of way budgets
- c. Act as liaison between the design functions and Right of Way
- d. Control and coordination of acquisition packages
- e. Control of project status
- f. Preparation of project status reports, including 6-month / Manager's Report
- g. Scheduling
- h. Hazardous materials reports
- i. Public land transfers
- j. Request for FHWA authorization
- k. Right of Way project clearance
- l. Parcel Status Reports
- m. Post construction requirements for public lands
- n. BLM inquiries on existing right of way
- o. Special project assignments

2.04 Participation in the Development of the Project Design Scope

A Project Coordinator will participate in the development of the project design scope as a member of the project management team. The coordinator should attend public meetings and hearings; provide right of way information on affected properties, anticipated acquisition and relocation problems, estimate right of way costs and right of way schedules. This information will be used in determining project location and design. The coordinator should recommend project changes to avoid anticipated right of way problems.

2.05 Manage the Project Right of Way Budget

To manage the project right of way budget, the coordinator will request or prepare a right of way cost estimate for the appraisal, acquisition, relocation and demolition of all parcels on the

project. This estimate will be used to develop the programmed right of way costs. After the budget is set the coordinator shall monitor the right of way costs and keep them within budget. Any significant changes should be brought to the attention of the Project Management Unit Manager.

2.06 Liaison Between the Design Functions and Right of Way

The coordinator acts as a liaison, between the project management team and Right of Way including but not limited to the following:

- a. Assist the Project Managers in anticipating and avoiding right of way problems.
- b. Participate in meetings and field reviews with the project designers, providing right of way expertise and project knowledge.
- c. Maintain knowledge of each parcel that is or may be required for the project. Project Managers and designers must be advised of right of way schedules and the importance of allowing adequate time in the project schedule for right of way activities.

2.07 Project Control and Scheduling

- a. The Project Coordination Unit continually develops and maintains project control and scheduling system. This Unit coordinates the production within the Right of Way Group and sets scheduling deadlines.
- b. The Right of Way Agents of this Unit shall gather data on parcels for each project that involves right of way. This data includes duration times for each phase of the project and the completion of each phase on a parcel basis. Reports are produced indicating the status of each individual project and the target dates of project completion for each of the Sections.
- c. The coordinators assist in the providing of information for the timely preparation of right of way plans. They help to assure that surveys and title reports are requested to cover possible design changes and will obtain preliminary and final right of way requirements as early as possible.
- d. The coordinators must know where acquisition packages are at all times. As a tool and permanent record, a Project Inventory Sheet for each construction project will be completed as soon as possible.
- e. Appraisals should be ordered as early as possible. Total acquisitions appraisals can be requested in advance of title reports and right of way plans. If title reports are completed but plans are not, it is beneficial (but not required) to request the calculation of total areas. Right of way plans or parcel exhibits must be available to request appraisals for partial acquisition parcels. The Unit Manager determines whether a Review Appraiser will order a fee appraisal or if a staff appraiser will be assigned. If a Review Appraiser is assigned, the appropriate form in the access database is to be initiated. Title reports, plans and other hard copy information is to be provided to the Review Appraiser or staff appraiser assigned.

- f. Request Delineation packages for total acquisition parcels that will be acquired prior to the preparation of Right of Way plans as soon as title reports have been received. Delineation packages for partial acquisitions parcels are prepared with the Right of Way plans.
- g. Set demolition target dates for parcels that have been acquired through advance acquisition to assure they are cleared in accordance with the project bid date. This date should also be used for parcels that are being leased so Property Management can determine a vacate date.

This data is used to set scheduling target dates in conjunction with ADOT's Five Year Construction Program. The right of way projects will be scheduled in conjunction with the published monthly Construction Schedule in order to meet the project bid calls scheduled by the Program and Project Management Section.

2.08 Control and Coordination of Acquisition Packages

The Project Coordination Unit reviews and controls acquisition packages processed through the Right of Way Group.

- a. Before each package is assembled for Acquisition Section, it will be checked to determine if it has all necessary right of way documentation, appraisals and authorization. Authorizations may involve HAZMAT clearance, Federal authorization (if appropriate and the Right of Way Acquisition Administrative approval if the appraised value of the parcel is over \$500,000). In addition, the appraisal and delineation package will be reviewed to verify the areas to be acquired are correct.
- b. Once all items for a complete package are received, a Parcel Control Transmittal, ADOT Form 60-4426 (*see Exhibit 11.01*), will be completed. The parcel package containing the delineation documents, right of way plans, Extended Occupancy Agreements ("EOA"), relocation determination and two appraisal copies together with a yellow copy of the transmittal will be forwarded through the Operations Section Accounting Unit to the Acquisition Section for acquisition of the necessary rights.
- c. The original appraisal with the white copy of the transmittal will be forwarded to the Records Center through the Property Management Section. (If an EOA is required, this step will be completed upon receipt of the appraisal.)
- d. If a relocation determination is required, an advance copy of the appraisal will be transmitted directly to the Acquisition Section.
- e. A pink copy of the transmittal will be forwarded to the Records Center to initiate a suspense file for receipt of the original appraisal.
- f. A copy of the parcel control transmittal form will be provided for entry into the computer database.
- g. The appropriate information will be logged onto the Project Inventory Sheet.
- h. When a package is returned from the Acquisition Section, the parcel either is acquired or is being condemned. On limited occasions, a package will be returned, as the parcel is

no longer required for construction. Accordingly, the Project Coordinator will again check for correct documentation prior to transmittal to the proper Unit or Section and complete appropriate logs/databases.

2.09 Control of Project Status

Control of project status is accomplished through an understanding of the construction project and monitoring each parcel status within a project. Information is received through various sources such as: design and field meetings, verbal communications with agents, copies of written correspondence to property owners, transaction packages, managers' reports and interoffice communications. All critical parcel activities and project information is recorded in a master log called a Project / Parcel Inventory Sheet (*see Exhibit 11.02*) and entered into the computer database known as the 6-month/Manager's Report.

The log will reveal the dates of hazmat clearances, delineation package and appraisal receipt dates, parcels transmitted to acquisition, completion of the acquisition of parcels on projects as well as "special conditions" obligating the State or the grantor in right of way contracts. The log will also show Federal Highway Administration approvals, the date acquisition packages are transmitted to the Condemnation Unit of the Titles Section, date of Order of Immediate Possession and Final Order of Condemnation, right of way clearance date for construction project, the date the Parcel Status Report was sent to the District office as well as the construction bid, award and start of construction dates.

The project coordinator analyzes this data to provide target dates for each service area to assure all right of way activities are completed to meet construction schedules

2.10 Preparation of Project Status Reports

The Project Coordination Unit prepares status reports regarding the Right of Way Group's progress on highway projects.

The Unit coordinates the updating of right of way data with the various Units or Sections within the Right of Way Group. When updating is completed, current records of projects will be made available to Right of Way Administration or in answer to requests from other Intermodal Transportation Division offices. The Project Parcel Inventory Sheet, maintained by the Unit, is used as the principal source for data changes within these reports.

2.11 Scheduling

The Project Coordination Unit develops critical path techniques and their relationships to the scheduling of projects.

The Unit personnel will collect the scheduling information and data for the Right of Way Group.

This information, as well as individual project information, is supplied to the Program and Project Management Section of the Intermodal Transportation Division for data entry and the Project Management Section administration to enter into the active project status report.

Environmental Requirements

No property shall be acquired outside of the environmental footprint of a project without specific clearance from the Environmental Section. The Project Coordinator shall notify the Environmental Section of the additional property to be acquired and request an assessment. The Coordinator should provide design and right of way plans and all other pertinent information along with the request.

2.12 Hazardous Material Report

- a. Hazardous material studies must be done on all projects requiring new right of way.
- a. The Coordinator requests a hazardous material investigation by the Environmental Planning Section.

A pre-initial site assessment ("PISA") will be conducted. If the parcel is cleared at this stage, the coordinator enters PISA clearance date in the log and computer. If further investigation is required, the Coordinator will request temporary rights of entry from Right of Way Plans. Upon receipt of the Temporary Entry ("TE") package, a transmittal form will be completed and the yellow copy sent with the package through the Operations Section Accounting Unit to the Acquisition Section for acquisition of the necessary rights.

- c. A Project Inventory Sheet for the Temporary Book will be completed with the appropriate information. When the TE is signed, a copy will be sent to Environmental Planning Services authorizing them to begin the next phase of the hazardous material report process.

The following are the four phases of these reports:

- | | | |
|----|--|---------------|
| 1. | Pre-Initial Site Assessment ("PISA") | (Pre-Phase I) |
| 2. | Initial Site Assessment ("ISA") | (Phase I) |
| 3. | Preliminary Site Investigation ("PSI") | (Phase II) |
| 4. | Detailed Site Investigation ("DSI") | (Phase III) |

Results of these reports will determine whether the parcel is "clean" or whether potential hazardous material is present and further study is needed. If further study is necessary then Environmental Planning Section will automatically begin the next phase of testing after notifying Right of Way Project Management Section of results as no remediation is involved.

- d. If the DSI involves remediation, the property owner, who is responsible for remediation costs, has the choice of hiring their own consultant. The acquisition agent assigned to the case is responsible for notifying Project Management of the property owner's decision. The State is responsible for testing costs only. When remediation is finished and Environmental Planning Services has cleared the property, the hazardous material report process is complete. Additional monitoring would be necessary. This is handled by the Acquisition Unit of R/W.
- e. Log entries should be made for each step of these procedures to assure a timely reporting process. In addition, notification of any results should be given to the appropriate agent.

- f. TE's for other purposes are handled in a similar fashion with notification to the Project Manager, Geotech and Archeology personnel.

2.13 Public Land Transfers

As part of ADOT's compliance with FHWA Executive Order 12348, the Project Management Coordination Unit will maintain a log of federal land transfers under 23 U.S.C. 107(d) and 317.

In conjunction with this log, a suspense system will be maintained to monitor physical construction activity during the twenty-year period unless otherwise specified. If construction has not started, title shall be reverted to the Federal agency, which owned the land unless an extension has been granted under 23 U.S.C. 108.

2.14 FHWA Authorizations

R/W projects that will have federal participation require authorization from Federal Highway Administration, ("FHWA") before work can proceed. This authorization is required at two stages.

- a. In the first stage, authorization is requested for incidental expenses prior to plans preparation and title work. The request to FHWA will include an estimate for the cost of plans preparation, title work, appraisal preparation and miscellaneous expenses associated with the acquisition of the project. Changes may be made to the project upon the date that FHWA gives the authority.
- b. In the second stage, authorization is requested for any acquisition and relocation. This is requested upon completion of appraisals and prior to any parcels going to Acquisition Section. A parcel-by-parcel acquisition and relocation cost estimate is provided in the request for authority to acquire. Acquisition and relocation can begin upon the date of the Federal authorization.
- c. Authorization is also required for the use of entry agreements on any R/W projects with federal-aid. This is even if the federal-aid is not in the R/W funding, but in any other phase of the project (i.e. construction, etc.). Before entry agreements are used, a request in writing to FHWA has to be made. If FHWA agrees, written authorization will be issued.

2.15 Right of Way Project Clearance

Each construction project requires a Right of Way ("R/W") clearance prior to bid advertisement. The clearance process differs slightly for projects requiring no new R/W versus projects with new right of way.

- a. When no new right of way is required, the Plans Section will forward to Project Management Section a Project Inventory Sheet stating no new right of way is required.
- b. The Project Management Section will then prepare the clearance letter. For projects requiring new right of way, a parcel inventory sheet and Project Clearance request ADOT Form 60-1703 (*see Exhibit 11.03*) is circulated to the appropriate Sections for recommendations and parcel comments. The recommendations are for full project

clearance or conditional project clearance. The clearance gives the status of all R/W parcels, as well as anticipated activity completion dates. Copies of a Property Management memo with information as to what must be demolished and by whom (the prime contractor, R/W, or the owner) will be included when demolition is required on the project.

- c. If there is no federal aid in the construction project or if the project is designated as an Operating Partnership. A clearance memo is prepared to ADOT's Contracts and Specifications Section. If there is federal aid in the construction project and the project is not designated as an Operating Partnership, a clearance letter is prepared and directed to FHWA

2.16 Parcel Status Reports

Right of Way provides a Parcel Status Report to the appropriate District Office for each construction project. This report gives the status of all new R/W parcels. Any parcels with special conditions, including cost to cure items to be handled by the prime contractor, R/W or the owner, are noted. Copies of the Special Conditions memo, and two sets of R/W plans are sent with the report to the appropriate District (One copy to the District Engineer and one copy to the Project Resident Engineer). Additionally, copies are also sent to the Project Manager. These documents will be sent by direct mail to ensure timely delivery.

If the construction project has no new right of way, then the Parcel Status Report is prepared at the same time as the clearance letter. If the construction project has new right of way required, then a Parcel Status Report is prepared at the time the construction project is being awarded.

2.17 Post Construction Requirements for Public Lands

Upon completion of the construction of the project, the following actions are necessary to maintain the State's interest in public lands granted for right of way.

- a. Bureau of Indian Affairs (BIA)

Upon completion of construction of the project, an Affidavit of Completion form will be filed by ADOT's field personnel on any rights of way acquired from the BIA in accordance with 25 C.F.R. 169 of the Federal Regulations.

- b. National Forests

In accordance with the current approved Memo of Understanding between Agencies, and upon completion of construction of a project with forest lands, the appropriate forest service must be notified. Upon completion of the Plans and Acquisition Sections process, the Federal Highway Administration and the appropriate National Forest will be notified of the acceptance of the deed covering any rights of way acquired from the National Forest Service. This notification includes sending recording data to the appropriate National Forest. The FHWA is notified of this action by a copy of the cover letter to the Forest Service.

c. Bureau of Land Management (“BLM”)

In accordance with the current approved Memo of Understanding between Agencies, and upon completion of construction of the project, a Grantee’s Certificate of Construction, is filed by ADOT field personnel for rights of way granted by the U.S. Department of Interior, Bureau of Land Management, in accordance with 43 C.F.R. 2803.2(d) of the Federal Regulations. Periodically, BLM requests that we file a Grantee’s Certificate of Construction or request an extension of filing time to check for continued use of existing rights of way.

2.18 BLM Inquiries Regarding Existing Rights of Way

These procedures set forth the development and control of the responses to BLM inquiries on existing rights of way granted by the Department of Interior, BLM, and is in accordance with the current approved Memo of Understanding between both Agencies. Periodically, BLM initiates follow-up on their requirement that the Department file a Grantee’s Certificate of Construction or request an extension of filing time. BLM also makes periodic checks on continued use of existing rights of way. Such inquiries will be routed to Right of Way Project Management Section for handling.

The following actions apply to BLM inquiries concerning Grantee’s Certificate of Construction, request for extension of filing time, or continued use of existing rights of way:

- a. If the construction has not been completed, Right of Way Project Management Section will determine when the construction is scheduled and if the right of way is still needed. If the right of way is still needed, a letter requesting an extension of filing time will be prepared by Right of Way Project Management Section for the Manager’s signature.
- b. If the construction has been completed and the inquiry is regarding the filing of a Grantee’s Certificate of Construction, the ADOT field personnel will file the Certificate.
- c. If the inquiry concerns the continued use of right of way, a facility site, or a material site, where the construction has been completed. Right of Way Project Management Section will forward the inquiry by memo to Right of Way Plans Section, Property Management Section or Acquisition Section respectively to research and determine if the right of way is still in use. The appropriate Section or Unit will respond to Right of Way Project Management Section by memo on the status of the right of way.
- d. If the memo reports the right of way is still in use, Right of Way Project Management Section will prepare the appropriate response on the BLM form for signature of the Section Manager.
- e. If the memo reports that the right of way is no longer in use, Right of Way Project Management Section will confirm this information with the District Engineer who will initiate the disposal process. Right of Way Project Management Section will prepare an interim response for Section Manager’s signature that will advise the BLM that their request will be processed.
- f. Right of Way Project Management Section shall maintain a log of all BLM inquiries which notes receipt of request, the Section researching it, and the date of response to BLM.

2.19 Special Project Assignment

From time to time, Right of Way Administration or the Right of Way Project Management Section Manager may request special project reports. These requests fall within the realm of the Team's responsibilities and duties.

Chapter 3 Appraisal

3.01 Purpose

The purpose of this chapter is to describe the functions, responsibilities, and general operating procedures of the Appraisal Unit of Right of Way Project Management Section. The purpose of this chapter is to outline those policies that will generally apply to the operation of the Appraisal Unit and to present general guidelines, which appraisers are to observe in carrying out the functions assigned to them. The appraiser should be acquainted with Arizona statutes and cases involving eminent domain. These policies and guidelines are applicable to both staff and fee appraisers contracted with by the Department.

3.02 Authority

The guiding authority for the preparation of Right of Way appraisals is found in Arizona Revised Statutes 28-7096 which provides that:

"The Director shall justify each acquisition or disposal of real property, under this article, of real property with an estimated value of more than fifty thousand dollars by at least one appraisal report in sufficient scope to document and justify the economic basis for the acquisition or disposal.

The Director may acquire or dispose of real property valued at fifty thousand dollars or less after the value has been estimated and justified by a market analysis based on comparable sales."

Department policy further requires that, when the Market Value of a property is estimated to be equal to or greater than \$400,000 that two appraisals are required. The Review Appraiser will determine if a third appraisal is required on properties estimated to be equal to or greater than \$1,000,000. In addition, more than one appraisal may be authorized on any property, depending upon the complexity of the appraisal problem and/or other special circumstances.

3.03 Appraisal Objectives

The objectives of the Appraisal Unit are as follows:

- a. Provide adequate documentation for any monies expended by the Department for transportation purposes
- b. Provide the Urban and Statewide Acquisition Sections with sufficiently detailed information with which to conduct purchases or exchanges (appraisal reports for disposals are completed through Property Management). A copy of the appraisal report is provided to the property owner through the Acquisition Agent.

- c. Provide a source of testimony for a subsequent condemnation case in the event the acquisition fails.

3.04 Litigation Support

In accordance with Department policy, the Appraisal Unit is responsible for performing parcel appraisals; provide support for the hiring of outside appraisers and to provide support and services to the Attorney General's Office in condemnation actions

The following shall occur:

- a. To the extent possible, the same appraiser(s) will be utilized for specific sections of a project to maintain valuation consistency.
- b. The staff appraiser (or review appraiser on fee assignments) will be briefed by the Project Coordinator on project background information at the time the request for appraisal services is made. The most up to date information will be provided to the appraiser or review appraiser for parcels that are estimated to cost over \$500,000, parcels that are judged to have the potential for significant severance damages, or parcels that are uniquely impacted by the proposed work.

3.05 Qualified Pool of Fee Appraisers

The Right of Way Section maintains, under contract, a pool of appraisers who have met the Department's requirements and standards for appraisal work. Appraisers are selected from this pool to do specific appraisal assignments by ADOT procurement. As an affirmative effort, ADOT encourages qualified fee appraisers, including but not limited to minorities or women, to apply for appraisal assignments for the ADOT. Project Management will assist the Operations Section with the following:

- a. Make contact with local appraisal organizations by letter, to solicit interest.
- b. Prepare newsletters and other publications likely to be read by appraisers.
- c. Designate a list of independent fee appraisers through the Request for Proposal ("RFP") process, in compliance with Department contracting procedures as prescribed in the State procurement code. The performance of each appraiser is evaluated on an annual basis to determine whether their contract will be renewed.

3.06 Staff/Fee Appraisal Assignments

- a. The Project Management Manager shall review each appraisal request and determine if it will be accomplished by a staff and/or fee appraiser based on the existing workload of Project Management staff, time constraints, special appraisal requirements and other factors.

For staff assignments, the Project Management Manager shall discuss each assignment with the appropriate Project Coordinator to identify the staff appraiser and assignment due date. All staff assignments will be made using appropriate written or e-mail correspondence.

- b. When selecting a fee appraiser, The Project Manager will request an assignment of the Review Appraiser by written or e-mail correspondence.
- c. The Review Appraiser should make a physical site inspection to determine the nature of the appraisal problem prior to making the assignment. Although this is preferred, if it is not possible or practical, a thorough review of available information (including information from the project coordinator) will be made prior to determination of the assignment.
- d. The appraisal request form in the presently used access database is initiated by the project coordinator. The Review Appraiser will fill in the number of appraisal reports required, the fee appraisers to request bids from and requested number of days to complete the assignment as well as comments to the appraisers, parcel information etc. Copies of title reports, plans and other information are to be provided to the Operations Contracts Unit for processing the request.
- e. The Review Appraiser is to gather sufficient information to determine a preliminary estimate for the acquisition. When the value of the acquisition is estimated to be equal to or greater than \$400,000 or \$1,000,000 then two or three appraisals, respectively, are ordered. In addition, more than one appraisal may be ordered depending upon the complexity of the appraisal problem and/or other special circumstances.
- f. Arizona Revised Statute 28-7096 provides that if the Review Appraiser determines the area to be acquired has an estimated market value of \$50,000 or less a Market Analysis & Proposed Offer Worksheet or Summary Report may be completed and processed through the unit secretary as outlined in 5.07 (c.).

3.07 Awarding Fee Appraiser Contracts

All fee appraisal assignments are made in cooperation with the ADOT Procurement Unit. Administration shall appoint an Appraiser Selection Committee to process all requests for fee appraisal assignments. The selection committee shall consist of three ADOT or AG staff members.

3.08 Appraisal Transmittal, Review and Approval

All appraisals for acquisition must be processed through Appraisal Review and Project Management. Appraisals ordered for excess land disposal shall also be processed through R/W Project Management.

Staff appraisal reports shall be forwarded to Appraisal Review with a transmittal form.

Fee appraisal reports shall be submitted to Right of Way Operations in accordance with the assignment contract.

3.09 Appraisal and/or Review Revisions and Updates

Appraisal Revisions or Reviewer Determinations are required due to changes in area to be acquired or changes in ownership, etc. and do not require a change in the date of valuation. Appraisal Updates require a change in date of valuation, due to filing of condemnation proceedings, passage of time before consummating transaction, etc.

Any subsequent revisions or updates to a previously approved appraisal, for any reason, will be reviewed and approved/recommended by a Review Appraiser and the appropriate revised appraisal review form or a narrative review will be completed. It will be the combined responsibility of the Review Appraiser and the Project Coordinator to distribute the revisions/updates in the same manner as the originals were distributed.

Chapter 4 Appraisal Standards and Specifications

4.01 Purpose

The purpose of this chapter is to present a detailed description of the subject matter to be discussed in the various sections contained in the appraisal report, as well as the specific contents required for the various appraisal report formats. This information applies to both staff and fee appraisers.

The assumptions and limiting conditions typically found in an appraisal assignment pertaining to an appraisal are contained in the Certificate of Appraiser form (*see Exhibit 11.04*) which is located immediately after the "Auditing Breakdown" section of the appraisal report. When the individual assignment requires expanding on the assumptions and limiting conditions, the appraiser should acquisitions care to discuss these additional items elsewhere in the report. These assumptions and limiting conditions should be referenced in this section of the report as follows:

"The underlying assumptions and limiting conditions pertaining to this report are contained in the "Certificate of Appraiser" immediately following the "Auditing Breakdown" section of this report. These assumptions and limiting conditions are an integral part of the report and are only placed at the end to facilitate reading of the report, not to minimize their importance."

4.02 Appraisal Cover Sheet

All appraisal reports shall be submitted with a cover sheet. The only change permitted to this format is the heading, which should be changed to reflect the type of report submitted as follows:

- a. Value-Finding
- b. Appraisal
- c. Revision
- d. Update
- e. Update and Revision

4.03 Purpose of the Appraisal

The following information shall be included in the "Purpose of the Appraisal" section of the report:

- a. A statement of purpose, including the interest being valued (fee, partial, easement, access rights, etc.), subject to "Schedule B" of the right of way title report. The subject property to be appraised will be described in the appraisal contract (for fee appraisers) or by review of the furnished right of way plans and title reports.

- b. The term "Market Value" is required to be utilized and referenced as defined pursuant to Arizona Revised Statute 28-7091:

- c. A statement referencing the assumptions and limiting conditions contained in the "Certificate of Appraiser" (*see section 4.01*)

4.04 Project Related Plans/Maps/Reports

The following including but limited to, maps, plans and reports, etc, can be obtained through the Plans Section, which either has the report or can obtain a copy:

- a. Right of way and construction plans
- b. Aerial maps and topographical maps
- c. Scope of Project Report
- d. Design Concept/Executive Summary Report
- e. Environmental Assessment
- f. Hydrology/Drainage Report
- g. General Plans

4.05 Scope of the Appraisal

In conformance with the Uniform Standards of Professional Appraisal Practice, an appraisal must describe the scope of the appraisal. This requires that an appraisal contain a clear and accurate description of the extent of the process of collecting, confirming and reporting data utilized in the report. This requirement is designed to protect others whose reliance on an appraisal report may be affected by the extent of the appraiser's investigation. The items to be discussed in this section include:

- a. Data sources and confirmations including geographical areas and time constraints of search.
- b. Scope of the project, including location, length and purpose (road widening, improvement of drainage facilities, etc.).
- c. Arizona State Transportation Board resolution data if available, including the number and date of the resolution authorizing the project and acquisition of the subject parcel.
- d. Right of way plan drawing number, date of approval and last revision date of each sheet affecting subject property.
- e. Subject areas as shown on the right of way plans (acres or square feet), i.e., area of the whole, areas/interests to be acquired and remainders, if any. Any deviation from the areas shown on the right of way plan must be explained.
- f. Title/ownership information based on title report, assessor information, etc.

- g. If the report is limited in scope, what typical procedures were omitted and why.
- h. If an assignment calls for something less than, or different from the work that would otherwise be required by the specific guidelines of the Uniform Standards of Professional Appraisal Practice, the report must state the limited or differing scope of the appraisal. As the Summary Appraisal format falls into this category, a statement similar to the following must be contained in this type of report:

"Due to the nature of this acquisition, a detailed appraisal report is not considered appropriate in accordance with Arizona Department of Transportation policies, procedures, standards and specifications. More detailed information regarding the subject property and market data is retained in the appraiser's files and is available upon request."

The appraiser shall immediately notify the Review Appraiser if the value estimate for the subject property may exceed \$400,000 or more. The Review Appraiser shall then assign additional appraisal assignments. If two or three appraisers are assigned on a single parcel, the name and telephone number of the other appraisers shall be supplied to each appraiser in order to facilitate scheduling of the site inspection and coordination with the Evaluation or Acquisition/Relocation Agent.

4.06 Legal Description

The legal description of the subject property is found in "Schedule A-1" of the right of way title report. When the entire ownership is extensive, reference may be made to the title report included in the addendum of the appraisal, rather than setting forth the lengthy legal description in the body of the report.

4.07 Five Year Chain of Title

The chain of title for the last five years as found in the Title Report must be discussed, including the following information:

- a. A review of past uses of the subject property and the dollar amount of all market transactions occurring within the last five years shall be disclosed. If confirmation of a market transaction is not possible, the reason must be stated.
- b. If a market transaction concerning the subject property is not used as a comparable sale in the valuation of the subject, the reason must be stated.
- c. Any change of title not reflected in the title report should be discussed by the appraiser, along with comments as to the source of information and verification.
- e. When no transactions have taken place during the last five years, a statement to the effect that the "present owner has held title since (year)" is sufficient.

4.08 Owner Contact

- a. In accordance with Federal and State regulations, the subject property owner, or the owner's designated representative, shall be offered the opportunity to accompany the

appraiser during the field inspection of the property. If the property owner declines to be present during the site inspection, it should be documented in the appraisal report.

- b. Initial owner contact must be made by correspondence. Contact by letter shall consist of a Notice of Inspection which includes the appropriate color-coded right of way plans sheet(s), a Field Inspection Response form and a self addressed, postage-paid return envelope. This type of correspondence must be sent certified mail. Mailing of this letter shall not exempt the appraiser of due diligence in contacting the owner. If no response is received to a notice of inspection, the appraiser should attempt to contact the owner by other means. These efforts should be documented and discussed in the appraisal report.
- c. Contact by telephone (including the telephone number where the property owner may be reached) shall be documented within the appraisal report. If the owner declines to meet with the appraiser, it may be necessary to mail a follow-up letter, along with the appropriate color-coded right of way plans sheet(s), to the owner. It is not necessary for this type of correspondence to be sent certified mail.
- d. For improved properties, the appraiser shall arrange for an assigned acquisition agent from the Acquisition Section to accompany the appraiser on the first site inspection with the property owners (and tenants, if applicable).
- f. During contact with the property owner, confirm current ownership in subject property as well as any contiguous ownership, leases, or parcel splits. Confirm preliminary property data and improvement characteristics, occupancy and subject sale information within the last five years (if applicable).
- g. Changes in Ownership.
 - 1. If the appraiser learns of changes in title to the subject property not reflected in the right of way title report, the information should be immediately reported to the staff member who ordered the report. That person must notify the Project Coordinator of ownership change and analyze the affect (if any) on the appraisal process and/or report necessity (i.e. larger parcel determination which may require revision or cancellation of the assignment or abutting parcel assignments, etc.).
 - 2. If title changes occur on an advance acquisition parcel, the information must be immediately reported to the advance acquisition coordinator who is responsible for notifying R/W Plans and the appraisal process halted until clarification of the situation is received.

4.09 Determination of the Larger Parcel

The "larger parcel" concept is an analytical premise unique to the field of eminent domain valuation and is of paramount importance in valuing partial acquisitions. The appraiser cannot determine the Highest and Best Use of a property before a conclusion as to the larger parcel is reached. Determination of the "larger parcel" is the responsibility of the appraiser and as this concept directly relates to the determination of potential severance damages, care should be exercised in this analysis.

The larger parcel may be all of one parcel, part of a parcel, or several parcels combined, depending on the following:

- a. **Unity of use:** **Unity** of use is considered the most predominant test. This does not necessarily mean the existence or non-existence of current unity of use, but rather unity of Highest and Best Use. Thus, even though a parcel may be under one ownership and contiguous, there may be more than one existing or economic use of the site. In this case, there may be more than one "larger parcel" to be considered.
- b. **Unity of title/ownership:** Acquisition of parts of a whole at different times does not destroy unit of title, nor, in some cases, does the fact that one parcel is owned by an individual and the second is owned by a corporation under the control of that individual.

Likewise, a fee interest in one parcel and a leasehold interest in an abutting parcel can operate as one larger parcel for the remaining term of the lease.

- c. **Contiguity:** Although typically a prime factor in determination of the larger parcel, contiguity is also not always mandatory. For example, a site located several parcels away, which provides necessary overflow parking may be considered as part of a larger parcel. Another example would be the taking of a processing plant for items produced on a non-contiguous site.

4.10 Site Inspection

Indicate the date and time of site inspection; as well as the name(s) of those present, i.e., property owner or designated representative, Evaluation or Acquisition/Relocation Agent, another appraiser, etc.

4.11 Tenant / Lease Information

State if the subject parcel is owner or tenant-occupied. If tenant-occupied supply pertinent tenant information, such as number of occupants and names, length of occupancy, type of tenancy, date of occupancy, rental rates and terms, shall be included in the appraisal report. Whenever possible, the appraiser shall obtain copies of leases, so that all interests may be valued. In addition, the appraiser should discuss tenant improvements with both the owner and the tenant to ascertain ownership.

If the subject property is leased, the appraiser shall determine whether the lessee has a partial interest in the property. This will typically occur when market rent exceeds contract rent for the property and the lease is for a lengthy term.

4.12 Area Data

Area data shall include a concise narrative description of the general area, land usage, economic and use trends and any special conditions that were found.

Within the Phoenix and Tucson metropolitan areas, all parties concerned with the report are considered familiar with such pertinent data as mentioned above. Therefore, a discussion of past growth, trends and the general economy would serve no particular purpose and may be omitted from the appraisal report. A statement must be made stating the omission.

4.13 Neighborhood Data

Identify, analyze and discuss the following salient facts regarding the subject neighborhood:

- a. Delineate the neighborhood boundaries. These boundaries occur because of natural or artificial barriers, physical attributes and/or development practices that characterize the area such as homogeneity of use, architectural design and quality of construction.
- b. Describe the neighborhood amenities, i.e., linkages to shopping, schools, churches, recreational and medical facilities, public transportation, etc.
- c. Describe the physical factors of the neighborhood, i.e., access, street layout, terrain/topography, soil conditions and drainage features.
- d. Describe the economic/financial factors, i.e., general range of housing prices, owner vs. tenant occupancy, employment centers and stability of incomes, pride of ownership as reflected in property maintenance.
- e. Describe the political/governmental factors, i.e., availability of municipal services (fire and police protection, public utilities, refuse collection), zoning patterns, deed restrictions and private covenants.
- h. Identify life cycle stage of the neighborhood.

4.14 Site Data

Describe the location of the subject site and all improvements thereon, including a discussion of the following factors:

- a. Size, shape and area
- b. Access and frontage
- b. Present use of the subject site and the immediate area, including land use in all directions
- c. Availability and adequacy of utilities
- d. Topography, soil conditions and drainage
- e. Flood zone and Census Tract data
- f. Off-site improvements, i.e., street-width, paving, curbs, gutters, sidewalks, streetlights, alleyways, etc.
- g. Location factors, i.e., proximity to inharmonious land uses, hazards or nuisances, such as noise, light, odor, excessive traffic, ravines, drainage ditches, etc.
- h. During the site inspection and area analysis, the appraiser shall:

1. Inspect the subject property and measure all exterior improvements (including walkways, driveways, patios, concrete pads, etc., fencing, signs, etc.), located on site if affected by the acquisition.
2. Measure distances of improvements to lot lines and/or new right of way line, if partial acquisitions.
3. Sketch plot plan and locate improvements, including asking the property owner/tenant about any underground tanks, septic systems, dry wells, etc. and show approximate location.
4. Sketch interior floor plan of improvements (if any), measure interior dimensions and indicate on floor plan sketch.
5. Take note of all improvement data in order to provide complete information in report.
6. Take a sufficient number of photographs, inside and outside, to show significant features of the property (including any signs and their visibility) in immediate area.
7. Interview the property owner/tenant during site inspection, for tenant information, division of realty and personality, confirmation of subject sale(s) (if any), recent improvements, etc.
8. Obtain pertinent rental information, copies of lease(s), income and expense statements, if the subject parcel is an income property.
9. Ask the property owner for any future uses planned for the site and/or any redevelopment plans already in progress.
10. Check the subject site for visible evidence of restrictions and/or easements that may not have been addressed in the furnished title report.
11. Check for prior legal non-conforming uses, signs located on property, visible indicators of potential hazardous waste concerns.
12. Take note of improvements located adjacent to subject site in all directions
13. Inspect the project area thoroughly, area/neighborhood boundaries, land uses, influences, amenities and similar areas/neighborhoods for comparable data collection.

4.15 Hazardous Materials

Although the Certification of Appraisal states that no responsibility is assumed by the appraiser for detecting the presence (or absence) of hazardous waste on a site to be acquired, the appraiser should take note of obvious potential hazardous waste indicators.

Past and present ownership and uses of a site should be reviewed, paying careful attention to such uses as gas stations, land fills, crop dusting operations, dry cleaning establishments, etc.,

which may indicate the potential for hazardous waste on the site. In the course of performing the site inspection, the appraiser should take note of visual indications of potential hazardous waste concern, i.e., obvious fuel spills, discolored soil, trash dumps, etc.

If there is reason to believe that a site may be contaminated, the appraiser must include special notation of such findings in the appraisal report and specify that the value arrived at does not include estimated costs for potential clean up. In addition, the appraiser is required to report their observations to the R/W Project Coordinator, who is responsible for notifying the Hazardous Waste Coordinator with Environmental Planning Group.

4.16 Improvement Data

Describe all improvements located on the subject property including construction quality and condition of improvements. This information may be described in a narrative or in a form format chosen by the appraiser.

The appraiser will provide a plot plan (site plan and floor plan) to delineate known improvements (including approximate location of underground improvements).

4.17 Division of Realty and Personality

- a. The appraiser is required to differentiate between real and personal property, as personal property is non-compensable under Arizona law. A detailed listing of items of realty and personality is required under this section of the report. Care should be taken to discover and properly discuss tenant improvements and leased fixtures, such as commercial laundry equipment, security or public address systems, etc.
- b. Typically, all items affixed in a manner meant to be permanent are considered as realty. However, at times, the property owner may wish to retain certain items such as special lighting fixtures, ceiling fans, etc. Substitute fixtures must be provided, or the electrical outlet capped, by the property owner at his expense. These items are then noted as personality in the appraisal and excluded from valuation.
- c. Other fixed items, such as built-in appliances, cabinetry, storage sheds, water purification systems, etc., may be retained by the property owner through salvage negotiations with the Acquisition Agent. These items are to be noted as realty in the appraisal and considered in the valuation of the subject property.
- d. When tenant-owned improvements are located on the real estate being appraised, their value will be determined in accordance with A.R.S. 28-7154 to be the greater of the following:
 1. The amount which the improvements contribute to the market value of the whole property (its contributory value), or
 2. Their salvage value: the probable selling price if offered for sale and the condition that they be removed from the property at the buyer's expense. Typically, salvage value is provided by Property Management Section.

- e. When appraising orchards, vineyards, timberland and agricultural properties, the trees, vines, cash crops, etc., are real property and should be valued at the amount that they add to the market value of the land.

4.18 Zoning

The appraiser shall state the existing zoning designation and jurisdictional authority, discuss minimum land area required, permitted uses and limitations, and if the subject conforms. A copy of the appropriate zoning map may be included. In addition, a check should be made to see if there are any pending zoning changes, the effects of which must also be discussed.

4.19 Restrictions and Easements

The appraiser shall discuss any existing restrictions or easements, by recording and/or usage, and state whether they will affect the use or marketability of the property. Easements and restrictions of record are usually found in "Schedule B" of the title report. Unrecorded encroachments (i.e., existing access points, fencing, building or sign encroachments, etc.) may be visible during the site inspection.

4.20 Taxes and Assessments

Although there is no apparent relationship between tax assessments and market value, a brief discussion of what the current taxes are and whether these appear to be in line with other similar properties in the area shall be included in this section of the report.

Establish if there are any special assessments against the subject property (typically for area improvements, such as street paving, lighting, sewer improvements, etc.), and discuss whether it has any affect on its use or marketability.

4.21 Signs

The appraiser shall state, as of the date of inspection, whether or not there are any signs located on the property being appraised. During the site inspection, the appraiser should do the following:

- a. Take photographs of all signs and their visibility from roadway.
- b. Measure sign face, poles, distance from ground, over-all height, distance from property lines and/or new right of way lines (if partial acquisition).
- b. Note the sign legend, whether sign is single or double-faced and whether sign is lighted, revolving, etc., and any other pertinent details.
- c. Contact the maintenance permits services department to ascertain the legal status of each sign.
- d. Determine the classification:

1. On-Premise Signs: Signs belonging to the subject property owner or lessee, which advertise the business located on the site and are considered as part of the subject real property to be appraised.
2. Off-Premise Signs: signs that are not owned by the property owner or lessee and are defined as a separate realty structure. The income to the site owner from the sign company is part of the real estate interest and should be included in normal appraisal analysis, while valuation of the sign itself may require a separate appraisal.

The appraiser shall notify the appraisal requestor of any off-premise sign located on the subject property that will be affected either by location within the area to be acquired or construction of the project; in order to ascertain whether a separate appraisal assignment has been requested. If a separate appraisal assignment is handling the sign valuation, there are still valuation issues to be handled by the subject property appraiser.

3. Realty Signs: If the sign belongs to the property owner, it is considered an on-premise sign and should be considered in the appraisal (i.e., cost-to-cure for relocating the sign). If the sign belongs to a real estate company, it is considered as personalty and should not be considered in the appraisal

4.22 Highest and Best Use

Highest and Best Use is generally defined as that physically possible, legally permissible and economically feasible use to which a property may be put within the near future to yield maximum profitability. The analysis and discussion of Highest and Best Use is perhaps the most important section of the appraisal report. It is the basis for the valuation of the subject property, as well as for the gathering of comparable market data.

The appraiser shall consider alternative uses for the site that are physically possible, legally permissible, economically feasible and maximally productive in order to arrive at a conclusion of Highest and Best Use. This requires an analysis of such factors as zoning, past and present uses, availability and current market conditions (supply/demand), etc. If the determined highest and best use is different from that allowed under the current zoning, the discrepancy must be discussed.

The Highest and Best Use of a parcel, as if vacant, may be different from the Highest and Best Use as improved. This occurs when the improvements on the site may not be appropriate and yet they contribute to the total property in excess of the value of the site as if vacant. As the improvements decrease in value and/or the site increases in value for other potential uses, the balance of value between land and improvements swings more toward the remaining value being in the site. In these cases, care should be taken to address any existing or potential interim uses of the site prior to demolition of the existing improvements and redevelopment to a higher use (within a foreseeable time frame).

A Highest and Best Use of land investment may be used; however, if it is reasonably possible to forecast a future Highest and Best Use, this also must be discussed. Care should also be taken to address existing or potential interim uses when a highest and best use of land investment is determined.

The same requirements apply to determining the Highest and Best Use in the after situation in the case of a partial acquisition.

4.23 Valuation

As a basis for estimating Market Value of real property, the appraiser compares and analyzes the subject property by as many separate techniques as are appropriate. Typically, value estimates are made utilizing the **Cost Approach**, the **Income Approach** and the **Sales Comparison Approach**. The appraiser is to consider all these approaches to value in completing an appraisal assignment and provide justification in the appraisal report if one or more of these approaches are not utilized. Round off dollar amounts only at the conclusion of each approach, or at the conclusion of the report.

The Cost and Income Approaches are not required in the appraisal for Market Value of total takings of single-family dwellings when there is an abundance of adequate comparable sales available for the subject property estimate. However, in some instances, it is advisable to compare value indications through these approaches as a useful check of the value estimated through the Sales Comparison Approach.

4.24 Cost Approach

This approach to value is based on the Principle of Substitution which states, in part, that a prudent purchaser would pay no more for a property than the cost of acquiring an equally desirable substitute, given no undue delay in making the substitution. This approach is most applicable for properties containing new construction, or in valuing special use properties for which insufficient market data are available. The analyses required in this approach include estimating the value of the land as if vacant, present reproduction cost of the existing improvements, and accrued depreciation from all sources. Although a full discussion of the procedures for implementing this approach is not considered necessary, listed below are a few items to be considered within this approach:

- a. The appraiser shall show all computations and disclose the source of the cost information that was utilized.
- b. The appraiser shall provide the basis for, and estimate of, accrued depreciation from all causes: physical, functional and external.
- c. Physical depreciation shall be shown for each major item; however, small improvements (arbors, sheds, etc.) may be placed together for depreciation. Depreciation should not be applied to landscaping unless it is inappropriate for the Highest and Best Use of the site, is inappropriately placed, or has suffered from disease or lack of care and is at the end of its physical life.
- d. If major improvements are involved, and if the cost approach is given the greatest weight in the appraisal, it is recommended that a contractor's signed estimate of reproduction cost be obtained.
- e. Land values are to be based on market comparison of similar sites, considering consistent use. Based on the "Theory of Consistent Use", land in transition to another use cannot be valued on the basis of one use while the improvements are valued on the basis of another. Therefore, the comparable sales utilized should have the same

highest and best use as the subject's improved highest and best use or appropriately depreciated under "Economic Obsolescence".

4.25 Income Approach

This approach to value is based on the economic principle of anticipation, which states, in part, that value is created by the anticipation of future benefits accruing to the subject property. These future benefits include periodic cash flows as well as a reversionary interest in the original investment. Obviously, this approach is most applicable for and only required in appraisals of investment-type properties; types which an investor would typically purchase for the income stream that the property could generate. The income approach should be used with caution and good judgment, especially when the subject property is not devoted to its highest and best use or has improper or inadequate improvements. Although a full discussion of the procedures for implementing this approach is not considered necessary, listed below are a few items to be considered within this approach:

- a. All computations, including a complete breakdown of the income statement, shall be shown.
- b. The income approach must be based on economic rent and typical expenses, not the profit and loss of the existing business.
- c. Expenses for vacancy and collection loss, reserves for replacement and for management's wages are to be included.
- d. The appraiser shall explain how the capitalization rate was derived. Gross capitalization rate from the market may be used in the Income Approach only if Gross Rent Multiplier (GRM) analysis is not used in the Sales Comparison Approach.

4.26 Sales Comparison Approach

Like the Cost Approach to value, the primary principle underlying the Sales Comparison Approach is the Principle of Substitution. The application of this approach is a direct comparison of similar properties, which have been sold, or offered for sale, to the property being appraised. The values found by the study of comparable market activity yield Market Value directly in accordance with its legal definition which is the simplest and most direct approach to Market Value. This approach is most applicable when there is adequate market sales data available of properties comparable to the subject and can be applied to land alone or to improved properties. Although a full discussion of the procedures for implementing this approach is not considered necessary, listed below are a few items to be considered within this approach:

- a. The appraiser is responsible for providing the reasoning or logic that leads to each individual adjustment made. The discussion should be sufficiently persuasive to lead a knowledgeable person in the appraisal field to agree with the reasonableness of the adjustment.
- b. For each element of comparison requiring adjustment, the appraiser shall use either dollar or percentage adjustments, but not both.

- c. When making adjustments, the appraiser should calculate the overall affect of the adjustment to the whole property to make sure it is reasonable.
- d. Care should be exercised by the appraiser not to "double adjust" for items such as size and room count, age and condition of improvements, etc.
- e. The appraiser shall state what affect, if any, the transaction date and terms of sale (financing) have on the validity of the sale as an indicator of Market Value.
- f. The estimated value of the subject property indicated by each sale shall be stated.
- g. The indicated values shall be reconciled into an estimate of value for the subject property based on what amount is most convincingly substantiated by the data presented.
- h. An adjustment grid is to be provided within each report.

4.27 Confirmation of Comparable Data

- a. Inspect comparable sales and complete data on appropriate Comparable Sales Record Sheet A photograph of the comparable and assessor map depicting the site are required. Comparable sales or listings utilized in appraisals must be verified as follows:
- b. Confirm sales information through public records, affidavit of value AND deed. Verify names of parties to the transaction, consideration paid and legal description of property transferred. When working out of town, it is advisable to obtain copies of pertinent instruments.
- c. Confirm sales price, terms/conditions of sale and property transferred with grantor/grantee. As a last resort, sales may be confirmed with a realtor or other third party familiar with the transaction. The use of sales which have not been confirmed with participants to the transaction is allowable in exceptional situations (typically only for vacant land parcels where the parties to the transaction cannot be located); however this should not be allowed to become the rule.
- d. Date agreement was concluded and date deed was executed by both parties.
- e. Condition of improvements (if any) at time of sale (usually grantee's opinion is best here).
- f. Any repairs or modifications made to property after transaction.
- g. Contingencies i.e., zoning change
- h. Other real estate or personalty included in transaction
- i. Buyer/Seller motivation
- j. Future plans for property

- k. Confirmation data - With whom (and telephone number, if possible), confirmed by whom and date confirmed. If confirmation is with a realtor, list the agency they represent.

4.28 Market Rent Estimate

An estimate of current Market Rent is required for all residential properties appraised.

4.29 Material Sites

Appraisals of material sites or lands subject to depletion will typically be based on the land value, through direct sales comparison, not on a computation of a unit price times the number of tons, yards or units of material anticipated for removal.

4.30 Project Influence

Any influence in valuation caused by the project prior to the date of valuation will be discussed and considered by the appraiser in each appraisal. However, the effect of these influences, if any, is to be disregarded in the valuation of the subject property, pursuant to Arizona Revised Statutes 28-7097(K), which states:

"In acquiring property for transportation purposes pursuant to this article, when determining the market value of the property to be taken and the market value of the remainder, if any, in the before condition, a decrease or increase in the market value of the real property prior to the date of valuation caused by the public project for which the property is to be acquired or by the likelihood that the property would be acquired for the project shall be disregarded."

Therefore, with the exception of the subject sale, if any, the use of comparable sales that are considered to have project influence is not acceptable (in the before situation).

4.31 Valuation – Part to be Acquired

The appraiser shall describe the area to be acquired as shown on the right of way plans. Any deviation from figures shown on the ownership record sheet must be explained. All improvements located within the area to be acquired and any improvements lying outside the area to be acquired that may be affected by the acquisition or construction of the project must be included in the appraisal.

The appraiser shall isolate the value of the part to be acquired, including any improvements, from the perspective of its value as a part of the entire property. Reconciliation of gross and net acreage figures may be made at this point.

4.32 Underlying Fee and/or Areas of Jurisdictional Exception

- a. The valuation of underlying fee interest requires an analysis of the remaining utility in the easement area. The most typical acquisitions of underlying fee interest are in roadway easement areas. The Department typically pays 100% of full fee value for the surface rights in these areas at the time of acquisition. In addition, if the area underlying the roadway easement cannot be developed, it is typically considered to have no

marketability and contribute no value to the site. Based on these factors, the value of underlying fee interest in a roadway easement area equals zero.

- b. However, in valuing these areas, proper consideration should be given to whether the area does, in fact, contribute value to the site, i.e., for calculating dwelling unit density, conforming to zoning regulations, etc. In cases such as this, analysis of comparable sales information should provide the value of the increased use potential the underlying fee area adds to the site and, hence the proper value of the underlying fee interest to be acquired.
- c. At times the Department is acquiring something less than full fee interest and/or the property owner has in the following:

- 1. Access Rights: Properties abutting a public roadway have the right of reasonable ingress and egress, a private property right that cannot be taken without just compensation. However, this right is not unlimited, but subordinate to the public's safe use of the route. Thus, abutting owners are not entitled to access to their properties at all points along the public roadway, rather to reasonable and adequate access consistent with the Highest and Best Use of the site.

The measure of the value of the access right is the difference in the market value of the property immediately before the acquisition and the market value of the property immediately after the acquisition, due to the proposed construction.

- 2. Easements: In determining the value of easement interests to be acquired, the appraiser shall consider the rights forfeited by the property owner because of the acquisition. To properly analyze the effects of the easement, it is imperative to establish the current highest and best use of the area and ascertain the Department's intended use. The analysis of the detrimental effects, if any, of the Department's proposed use on the current highest and best use of the area will allow the appraiser to arrive at a reasonable estimate of the percentage of fee interest being acquired.

- (a) Perpetual Roadway Easements are typically only acquired from the Forest Service, the Bureau of Land Management and from the State Land Department. Both the Forest Service and the Bureau of Land Management provide the necessary right of way at no charge to the Department and, thus, do not require valuation. The State Land Department, however, requires payment for roadway easements. These perpetual roadway easements are typically valued at 100% of full fee value for the area to be acquired plus any severance damage.

- (b) Limited easements are usually estimated at less than full Market Value. Should the valuation of such easements be estimated at full Market Value, the appraiser's reasoning must be clearly shown. Some types of limited easements typically acquired by the Department and their potential impact on value include:

- (1) Drainage Easements are typically required for two purposes:

- (aa) An area in which to construct a drainage structure. These types of drainage easements, depending upon the type of structure to be placed within them, may leave little remaining utility to the property owner. This may require valuation near or at full fee value for the area affected.
 - (bb) An area only required to provide access to drainage structures located within the adjacent highway right of way for purposes of periodic maintenance. This type of easement does not typically restrict the owner's use of the site to any large degree and should be valued accordingly.
 - (2) Easements for ponding are typically described areas where water may accumulate at times prior to draining through nearby drainage structures. The property owner typically retains full use of this area, subject to conditions of the easement. However, in order to properly assess the effects of this ponding and hence the appropriate percentages of fee value, the appraiser should review project hydrology and drainage reports to
- (c) Temporary Construction Easements (TCE) for construction purposes typically fall into two categories; those for the benefit of the Property Owner or of the Department. These takings are temporary in nature and the areas involved revert to the property owner at a specified time, typically upon completion of the construction project. The valuation of these areas is handled as follows:
- (1) A TCE typically for the benefit of the property owner, i.e., driveway grading, fence replacement, utility hookups, etc. These types of temporary uses will not require a valuation analysis in the appraisal. The Acquisition Agent will present a standard T.C.E. document for execution and a nominal payment will be processed to the owner, if appropriate. If, however, the work to be performed within the T.C.E. area (i.e., change in grade) is considered to have an adverse affect on the property, the damages must be addressed in the appraisal.
 - (2) A TCE required by the Department to facilitate construction of the project, i.e., detour roads, slope flattening, drainage channelization, storage of materials, etc. These types of temporary easements are leased from the property owner and will require a valuation analysis to estimate a monthly rental rate in the appraisal report if one or more of the following situations exist:
 - (aa) The work to be performed in the TCE area has an estimated value of \$10,000 or more as paid annually
 - (bb) The work to be performed within the TCE area (i.e. change in grade) is considered to have an adverse affect on the property

- (cc) The appraisal report is being updated for or requested by the Attorney General's Office.
- (dd) In instances where the report is not an update or at the request of the Attorney General's office, there is no adverse affect on the property, and the estimated value of the TCE is less than \$10,000, the Acquisition Agent may negotiate the value of the TCE after receiving a concurrence of value from a Review Appraiser.

4.33 Signs

All appraisals shall contain a statement as to the presence or absence of signs on the subject parcel as of the date of valuation.

Estimate present value of the sign through:

- a. Valuing the income stream to advertising billboards
- b. Direct Valuation Publications
- c. Obtaining contractor estimate (preferably in writing from more than one contractor).
- d. If sign can be relocated, obtain estimate from local contractor (preferably in writing from more than one contractor). Appropriate compensation to the sign owner is considered the lesser of the following:
 - 1. The cost to acquire
 - 2. The cost to relocate
- e. The cost of relocating these signs will typically be discussed under "Cost to Cure" to ascertain the appropriate compensation.
- f. In those instances of partial acquisitions where separate appraisals have been ordered for the subject property and the billboard, the site appraisal shall address the cost to relocate the off-premise sign. The site appraisal must also address whether it is physically possible and legally permissible to relocate the billboard on the remainder site (if site improvements outside the area to be acquired allow for a new location of the sign) and the affect of doing so to any existing improvements feasibility of lost or relocated parking spaces, etc.).

4.34 Valuation – Remainder as Part of Whole

The basis for calculating the value of the remainder as part of the whole is:

Value of the whole before acquisition (\$) less the Value of the part to be acquired
 (\$) = Value of the remainder as part of whole or (\$)

4.35 Valuation – Remainder Parcel After

The valuation of the subject remainder shall follow the same steps used in valuing the whole parcel before the acquisition, from analysis of "Highest and Best Use - After" to final reconciliation, in order to assess potential severance damages, special benefits and/or cost-to-cure. The appraiser shall describe the remainder parcel, discussing how the subject has been physically altered by the acquisition, i.e., change in size, loss of access, improvements affected, etc. The appraiser shall indicate the areas of remainder parcels, right and left, as shown on the right of way plans ownership record sheet. Any deviation from the figures shown shall be explained. It is in valuing the remainder parcel – after that project influence is considered.

The subject remainder should be valued by comparison with sites located in similar situations, with respect to the highway in the after situation. Care should be used to insure that the location, use and accessibility of both the sales and the subject remainder are comparable. It may also be necessary for the appraiser to consider additional factors such as the timing of construction and completion of the improvement in evaluating the "after" situation, which may require applying a discounting technique to estimate severance damages or special benefits.

4.36 Severance Damages/Special Benefits

All appraisals shall state whether or not severance damages and/or special benefits were found in valuing the subject property and fully discuss all compensable items which contribute to a loss or increase in value.

Severance Damages

Severance damages reflect a decline in the market value of the remainder parcel (in the case of a partial taking) that arises as a result of the taking and/or construction of the proposed improvement. Elements of damage should be real, concrete and measurable. They should not be speculative or remote.

Some conditions that may cause damages to the remainder property are:

- a. Change in the Highest and Best Use of the property. A change in highest and best use is the most likely cause of severance damages. An analysis of the property for alteration as to size, shape, grade, or other physical change that would tend to change the highest and best use of the remainder parcel should be performed. If a change in highest and best use causes the property to suffer a loss in value in the market place, it should be documented by use of comparable sales or other data shown in the appraisal.
- b. The manner in which access to the property will be restricted by the acquisition and/or proposed construction and the availability of other means of access.
- c. Location of improvements in relation to the proposed highway.
- d. Size, shape and/or topography of the remainder property.

Benefits: There are two classifications of benefits:

1. General Benefits - Benefits which accrue to the community at large or to the general area adjacent to the project; and

2. Special Benefits - Specific benefits accruing to the remainder property after a partial taking due to the construction of the project. Only properties abutting the highway may accrue special benefits such as an increase in the value due to location at a highway interchange in the "after" situation.
- e According to current Arizona law, Special Benefits (not general) can only be offset against Severance Damages to the remainder, not against the value of the part taken. This offsetting shall be explained in the appraisal report.
 - f Damages and special benefits are measured by comparing the value of the remainder parcel after the acquisition with the value of the remainder parcel as a part of the whole

4.37 Non-Compensable Damages

The appraiser is required to differentiate between compensable and non-compensable damages under Arizona law. The appraiser should be thoroughly familiar with Arizona statutes involving eminent domain.

The following are examples of non-compensable types of damages that should not be included in the market value for the acquisition.

- a. Damage to businesses.
- b. Expense for moving personal property.
- c. Loss of good will.
- d. Damage due to business owner's inability to locate an acceptable substitute location.
- e. Loss of profits due to moving or interrupting business by reason of the highway improvements, or any other reason.
- f. Damage due to annoyance and inconvenience suffered by the public in general.
- g. Circuity of travel (e.g., that caused by dividing a highway with a median strip or by installing a one-way street), unless the acquisition results in a loss of reasonable access
- h. Re-routing or diversion of traffic.
- i. Change in the amount of traffic.
- j. In general, all types of damages considered potential, speculative, and remote, uncertain and difficult to ascertain, are not to be considered.

4.38 Cost to Cure

- a. The "Cost to Cure" method is used in situations where a property has suffered a damage which can be physically and economically corrected, and when the utility of the property can be restored, in whole or in part, by an expenditure that will substantially restore the

value, such as by relocating or rearranging buildings, fences, irrigation, utilities, signs, etc., and/or re-establishment of physical access.

- b. The cost to cure element should be justified in relation to the potential damages if not cured. The severance damage offset by this cost to cure must be estimated or adequately explained and the cost of curing the damage to the remainder must be less than the cost of the damages or cost to acquire. When the cost to cure is greater than the damages, if not cured, the cost is not justified and the appropriate compensation is considered the cost to acquire or payment of damages.

Thus, the appropriate compensation is considered to be the lesser of:

- 1. the cost to acquire/payment of severance damages; or
- 2. the cost to cure or restore the item to its functional utility prior to the acquisition or construction of the project.

Where it is obvious that items of minor damage (i.e., reconstruction of driveways restoration of fencing, etc.), must be cured, it is not necessary to measure the cost to cure against damages or cost to acquire.

- c. **IMPORTANT!** Duplication of Payment:

A weakness in application of the cost to cure process is the duplication of payment that results when an item is paid for as being acquired and, in addition, is given full replacement cost in estimating the cost to cure damage. An example of this would be when an item such as fencing or pavement is located in the area to be acquired and included in the value of the part to be acquired, then given full replacement cost to "cure" the situation as well. The correct method would be to subtract the contributory value of the item paid for in the part to be acquired from the cost of replacing the item as the appropriate cost to cure compensation, as shown below:

Total Replacement Cost: \$ 2,500

Less: Contributory Value of Item: (\$-1,000)

Equals Cost-to-Cure Compensation: \$ 1,500

Care should be taken to extract only that portion of the item, which is being cured for deduction from the replacement cost. For example, if the part to be acquired consists of a 50'-wide strip taking of a fenced site, it is only necessary to restore that portion of the fencing abutting the new right of way line. Thus, the contributory value of only that portion of the fencing should be deducted from the replacement cost. The 50 feet of fencing along each side is simply being acquired and its value should not be deducted from the replacement cost to cure. Management pre-authorization is required to have a formal contractor's estimate completed.

4.39 Uneconomic Remainders

- a. Arizona Revised Statutes 28-7092 provides the authority for acquisition of uneconomic remainders as follows:

"If a part of a parcel of land is to be taken for transportation purposes and the remainder is to be left in such shape or condition as to be of little value to its owner or to give rise to claims or litigation concerning severance or other damage, the director may acquire the whole parcel..."

If, in the appraiser's opinion, the remainder parcel (or a portion thereof) would be damaged to this extent due to the acquisition or construction of the project, two estimates of value shall be provided. They are:

1. Market Value if the property owner retains uneconomic remainder
 2. Market Value if the Department acquires uneconomic remainder
- b. Upon approval by the Reviewer, one or both offer options may be presented to the property owner.
- c. Items typically causing uneconomic remainders include:
1. Size, shape of remainder parcel
 2. Lack of access to remainder
 3. Topographical considerations
 4. Additional encumbrances to the remainder, such as drainage and ponding easements, etc.

4.40 Final Reconciliation and Justification

The appraiser shall arrive at a final conclusion of Market Value and give justification for said conclusion.

The estimate of Market Value shall be based on consideration of whether all significant data has been accounted for, on what basis (approach) does the market buy and sell the type of property being appraised and what amount is most convincingly substantiated based on the data presented. The value indicators should never be averaged.

The appraiser shall round the final estimate of Market Value by reviewing other market transactions to ascertain what degree of rounding is occurring in the marketplace for the type of property being appraised. For example, an estimated Market Value of \$23,545.98 could be rounded to either \$23,550.00 or \$23,600.00, depending on market activity.

4.41 Lessee / Lessor Interest

If applicable, the value of the leasehold and leased fee interests of the subject property shall be estimated, with appropriate support provided.

The Lessee interest, plus the Lessor interest, is not to exceed the total value of the property, or in a partial acquisition, the total value of the part to be acquired.

The value of any tenant-owned improvements located on the real estate being appraised, shall be determined in accordance with Department policy.

4.42 Auditing Breakdown

The appraiser shall state separate estimates for value of land and improvements, itemizing the rounded total into rounded subtotals of land, improvements, severance damages, special benefits, etc. The breakdown should also include itemization of the various interests being acquired, i.e., easements, leased fee, leasehold, temporary construction leases, off-premise signs, etc. The value of a temporary construction easement is to be provided as a monthly rental rate and indicated in the Auditing Breakdown, but not included in the total. This breakdown is necessary for accounting purposes and for federal reimbursement as needed.

4.43 Certificate of Appraiser

The Certificate of Appraiser Form (*see Exhibit 11.04*) shall be included in each appraisal report. All Updates or Revisions to previously completed appraisals must have a new Certificate of Appraiser. The certificate shall cite the appraiser's Arizona Certification Number or License Number. The appraiser must sign the certificate.

Should the appraiser desire to include their own Certificate form, it should be included as an additional Certificate not in place of the ADOT required form.

4.44 Appraiser Certification

The Department requires that its appraisers and reviewers (both staff and fee) maintain the appropriate Arizona State professional designation pursuant to Arizona Revised Statutes 32-3603 A, which states:

Pursuant to A.R.S. 32-3622(B), appraisers and reviewers are required to include their designation and individual certificate number in all appraisal reports.

4.45 Required Documentation

The following items shall be contained in the appraisal or addendum:

- a. Copies of right of way ownership record and plans sheets, with subject parcel outlined and color-coded to show area(s) of acquisition and the various interests to be acquired. If right of way plans are not available, include a copy of the appropriate assessor ownership record and map depicting the subject property.
- b. Photos of the subject property, including all improvements (inside and out) taken or damaged.
- c. A sufficient number of photographs properly identified and taken at various angles to show significant features of the property, especially the improvements. Inside photos of all improvements should be properly identified. At least two outside views of major improvements and views of the roadway should be included.

- d. For partial acquisitions, indicate the area to be acquired and remainder areas on the photographs, if possible.
- e. For staff appraisers, all photo negatives are to be included in the Right of Way file copy of each appraisal.
- f. A plot plan showing location and dimensions of improvements, right of way line (old and new), approximate distances and any special features unless the area to be acquired consists of vacant land and a plot plan would not serve to clarify the area to be acquired more than what is depicted on the right of way plans (i.e., Strip-taking from a vacant land parcel).
- g. A floor plan of the interior with measurements, if such improvements are affected by the acquisition.
- h. A comparable sales map depicting the location of each comparable utilized in the report in relationship to the subject property and the data sheets for the comparable sales which were used in arriving at the Market Value estimate, except for an appraisal Update or Revision which does not change the prior valuation
- i. Right of way title report (if available)
- j. Other if appropriate:
 - 1. Copy of advance acquisition request/approval
 - 2. Copies of leases
 - 3. Floodplain maps
 - 4. Contractor estimates
 - 5. Any other pertinent information

4.46 Submittal of Appraisals

Prior to the submittal of any appraisal, an in-house quality review (including all mathematical computations and grammar) shall be performed utilizing the Department's Appraisal Quality Review Checklist. This checklist shall be submitted with the appraisal reports.

Fee appraisers shall submit the original appraisal report and the appropriate number copies to Right of Way Operations in accordance with the assignment contract.

Staff appraisers shall submit the original appraisal report and the appropriate number of copies, as outlined below, to the secretarial staff, who will date-stamp the face sheets, prepare a transmittal and forward to Appraisal Review.

The original appraisal report and three copies shall be submitted for improved properties and parcels owned by the State Land Department. The original appraisal report and two copies shall be submitted for vacant land parcels. At least the original and one of the copies (two of the copies if improved) shall contain original photographs of both the subject and the comparable sales. Staff appraisers shall retain a copy of the completed appraisal report for their personal files.

4.47 Appraisal Report Formats

The selection of the appropriate appraisal report format is predicated upon Department policies. The appraiser must be aware that typically only the reporting format is shortened or abbreviated, depending upon the scope of the assignment, not the appraisal process.

Various types of appraisal reports and Department policies and general requirements are listed

- a. Informal Estimate - Typically limited in scope, the elements required to complete an informal estimate are usually less detailed and reports are more concise (typically on office memo form) than formal estimates or appraisals. Requests for informal estimates include such items as market rent, amenity components for relocation determinations, etc.
- b. Formal Estimate - A formal estimate requires essentially the same research and data collection elements as required for an appraisal. Requests for formal estimates include design alternative alignment estimates, proposed property exchanges, parcel or project estimates for funding purposes, i.e., advance acquisition, etc.
- c. A project estimate requires the consideration of three right of way categories: acquisition costs, relocation costs, and demolition costs. The Acquisition and Property Management Sections will assist with the relocation and demolition costs to be compiled into the final project estimate.
- d. Real property valued at \$50,000 or less may be justified by a Market Analysis and Proposed Offer Worksheet (Exhibit 11.08), and the appraisal requirement may be waived under A.R.S. §28-7096.
- e. The appraisal waiver limit is set at \$25,000 on projects with federal participation, as provided by 49 CFR 24.102 (c) (2) and approved by Federal Highway Administration July 3, 2003. Further federal approval was granted for valuing uncomplicated acquisitions between \$25,000 and \$50,000 using the Market Analysis and Proposed Offer Worksheet with review and approval of a Right of Way Manager to meet 49 CFR 24.104 requirements. These requirements are outlined in a letter dated July 2003 and made a part of this manual (Exhibit 11.07).

Market Analysis and Proposed Offer Worksheet – Used for properties valued at under \$50,000. The use of a Market Analysis and Proposed Offer Worksheet rather than a narrative or summary report is determined, not just on a project-by-project basis, but also on a case-by-case basis. A senior staff appraiser determines which method to use based on land values in the project areas and the complexity of the take. Land values may be determined by a comprehensive search of comparable sales solely for the purpose of completing a Market Analysis and Proposed Offer Worksheet for properties. The appraiser responsible for the comparable sales search, will also be responsible to view the area to be acquired to note the improvements, and what cost to cure items (if any) need to be addressed (i.e. fence relocation, cost to replace landscaping, etc.). The total value including any cost-to-cure items may not exceed \$50,000. One or more photographs of the parcel including any improvements in the take area must accompany the Market Analysis and Proposed Offer Worksheets on properties valued at between \$25,000 and \$50,000. The established value must be reviewed and concurred with by a

Right of Way Manager prior to presenting an offer. ADOT appraisers are not authorized to present offers to purchase property rights.

- f. Summary Report - may be used when the area to be acquired has an estimated market value less than \$50,000. Typically, this will occur as a result of the parcel's size, shape and/or utility. Other factors that may influence an estimated value in this range include the area to be acquired, restrictions and encumbrances and/or non-complex property damages which are nominal or measured by Cost to Cure. This report format will require substantiation based on specific comparable sales or other market data and shall include a brief discussion of the following items:

1. Appraisal Definition:
2. Purpose of appraisal, including property rights appraised
3. Reference to Arizona Revised Statute 28-7091, defining value
4. Statement of Assumptions and Limiting Conditions
5. Justification for abbreviated format and reference to Departure Provision
6. Identification of inspection and property owner contact dates
7. Property Description:
8. Resolution number and right of way plans drawing number, with date of last revision
9. Legal description
10. Length of ownership and discussion of subject sales, if any
11. General description of the subject's location, physical features, improvements (including signs) and current use
12. Statement of current zoning and Highest and Best Use
13. Valuation
14. Description of area to be acquired and remainder
15. A general discussion of comparable sales and adjustment factors
16. Estimate of market value
17. Statement regarding project influence
18. Auditing breakdown
19. Certificate of Appraiser
20. Addendum

- g. A Uniform Residential Appraisal Report ("URAR") may be used for the total acquisition of non-complex single-family residences, co-ops, condominiums and mobile homes. In addition to a completed URAR computer form, a narrative discussion of information applicable to each of the following sections, as described earlier in this chapter is required for this appraisal format:

1. Purpose of the Appraisal
2. Scope of the Appraisal
3. Legal description
4. Five Year Chain of Title
5. Owner Contact and Site Inspection information
6. Tenant Information (may include Leasehold Interest)
7. Division of Realty and Personality
8. Brief discussion of adjustment factors, providing necessary support for adjustments made in the U.R.A.R.
9. Statement regarding presence or absence of signs
10. Statement regarding Project Influence

11. Estimate if Market Rent if appropriate
 12. Auditing Breakdown
 13. Certificate of Appraiser
 14. Addendum
- h. Detailed Narrative Report - is required for total acquisitions of vacant land exceeding \$50,000 and for complex appraisal assignments. Additionally, this format may be utilized for non-complex partial acquisitions. The Detailed Narrative Report format requires an in-depth discussion of the information applicable to each of the following sections, as described earlier in this chapter:
1. Purpose of the Appraisal
 2. Scope of the Appraisal
 3. Legal Description
 4. Five Year Chain of Title
 5. Owner Contact
 6. Site Inspection
 7. Tenant Information (if applicable)
 8. Area Data
 9. Neighborhood Data
 10. Site Data
 11. Improvement Data
 12. Division of Realty and Personality (if applicable)
 13. Zoning
 14. Restrictions and Easements
 15. Taxes and Assessments
 16. Signs
 17. Highest and Best Use
 18. Valuation
 19. Cost Approach (if applicable)
 20. Income Approach (if applicable)
 21. Sales Comparison Approach
 22. Estimate of Market Rent (if applicable)
 23. Project Influence
 24. Description/Valuation of Part to be Acquired and discussion of Physical Effects of the Acquisition (if non-complex partial acquisition)
 25. Explanation of non-complex Severance Damages, Special Benefits and/or Cost-to-Cure (if applicable)
 26. Final Reconciliation and Justification
 27. Lessee/Lessor Interest (if applicable)
 28. Auditing Breakdown
 29. Certificate of Appraiser
 30. Addendum
- i. Before and After Narrative Appraisal: This type of appraisal is required for difficult partial acquisitions that have the potential for complex severance damages and/or special benefits. This type of appraisal requires extensive research in order to estimate value of the entire parcel before acquisition, value of the part to be acquired and value of the remainder parcel both before and after the acquisition.

The Before and After Report format includes all those requirements listed for a Detailed Narrative Report in order to establish the value of the subject parcel as a whole before the acquisition, PLUS:

1. Valuation of the remainder parcel as part of the whole
 2. Valuation of the remainder parcel after the acquisition as a separate entity
- j. ***The use of Project Data Books – are no longer acceptable since a copy of the appraisal report is distributed to the property owner during the negotiation process, the use of data books are no longer acceptable.***

4.48 Disclosure of Information

All appraisers shall follow the guidelines outlined below when disclosing project or appraisal information:

- a. Appraisers shall observe confidentiality in accordance with the Ethics Provision of the Uniform Standards of Professional Appraisal Practice.
- b. Until the appraisal has been approved by the Reviewer, it shall not be disclosed to any other persons.
- c. Even after approval of the value by ADOT, appraisers shall not disclose the appraised value of a parcel to anyone other than appropriate Department officials, unless required by due process of law. Requests for such information from property owners shall be referred to Acquisition Section. All other requests shall be referred to Operations Section.
- d. Unless the right of way plans have been accepted and approved (finalized), all plan sheets distributed outside of Right of Way shall be indicated as "Preliminary" plans.
- e. Ownership record sheets from the right of way plans shall not be distributed to property owners.

4.49 Record Retention

Arizona Revised Statutes 32-3637 specifies the requirements for retention of appraisal records as follows:

- a. A State Licensed or State Certified Appraiser shall retain for three years originals or true copies of all written contracts engaging his services for appraisal work and all reports and supporting data assembled and formulated by the appraiser in preparing the reports.
- b. This three year period for retention of records is applicable to each engagement of the services of the appraiser and commences on the date of the submittal of the appraisal to the client unless, within this three year period, the appraiser is notified that the appraisal or report is involved in litigation, in which event the three year period for the retention of records commences on the date of the final disposition of the litigation.
- c. The Board may inspect all records required to be maintained under this chapter by the state licensed or state certified appraiser on reasonable notice to the appraiser.

Chapter 5 Appraisal Review

5.01 Purpose

The purpose of this chapter is to describe the functions, responsibilities, and general operating procedures of the Appraisal Review Unit of Right of Way Project Management Section.

It is the responsibility of the review appraisers to determine just compensation and to ensure that the appraisal reports are written in compliance with Arizona Department of Transportation Appraisal Procedures Manual. The purpose of appraisal review is twofold:

- a. Investigate, analyze, and verify the logic and procedures used in appraisal reports.
- b. Ensure competent and thorough reports that generate sound values.

5.02 Appraisal Review Standards

The review appraiser will base all conclusions on standards as set forth in the following:

- a. The Arizona Department of Transportation Appraisal Procedure Manual, referencing policies, procedures, standards and specifications.
- b. U. S. Department of Transportation Uniform Relocation Assistance and Real Property Acquisition Regulations.
- c. Uniform Standards of Professional Appraisal Practice (USPAP.)

5.03 Appraisal Review

The following is a guide describing the process of appraisal review:

- a. The review appraiser will be furnished a copy of the appraisal problem, a copy of the right of way plans sheet and the ownership record sheet used by the appraiser to prepare the appraisal report.
- b. Identify the report under review, the real estate and real property interests being appraised, and the date of value of the report under review.
- c. Review the description of the subject property, noting any unique or special features that might sufficiently affect property value.
- d. Verify the total ownership area, acquisition area and any remainders.
- e. Check critical mathematical computations for appropriateness and accuracy.
- f. Review appraised value indications, as derived from the cost, income, and sales comparison approaches, and the correlated value conclusion.

- g. Inspect, as appropriate, the subject and the comparable properties including the improvements.
- h. Determine if the part to be acquired was valued as part of the whole or as a separate economic unit.
- i. Determine if the before and after remainders have been valued and if special benefits and/or severance damages have been considered. Determine if a cost to cure is appropriate.

5.04 Appraisal Analysis

The following is a guide describing the analysis to be made by the review appraiser:

- a. Concur with the appraisers highest and best use determination, or cite the reason for disagreement.
- b. Conclude on the appropriateness of the appraiser's methods of valuation, including the quality of data utilized for any applicable approach to value.
- c. Review the reasoning and logic involved in the dollar and/or percentage adjustments applied to the market (sales) data.
- d. Examine assumptions and limiting conditions for appropriateness.
- e. Consider the appropriateness and the location of the comparable sales in relation to the subject and consider project influence.
- f. Determine the appropriateness of the appraisal methods and techniques used, and note the reasons for disagreement, if any.

5.05 Value Conclusion

The market value conclusion can only be made by the review appraiser. The valuation conclusion of the review appraiser will be based on the factors set forth in the appraisal or as determined from the review.

In the case of multiple appraisal reports, legal problems of compensability or other unusual circumstances make it more desirable, the reviewer will prepare a narrative analysis comparing and analyzing both appraisal reports and select the appraisal report which best represents the most reliable indicator of value. The narrative, which may be a Reviewer's Determination, must contain an explanation of the logic and reasoning utilized by the reviewer to reach his/her conclusion.

The reviewer must thoroughly understand any differences in the reports. Regardless of which appraisal report is selected, all appraisals should comply with the department's standards.

5.06 Appraisal Discrepancies

In the process of the appraisal review, any necessary corrections are to be requested of the appraiser in order to provide the best final product possible. The Reviewer MUST notify the R/W Project Coordinator in writing that the appraisal has been returned for corrections. The parcel number and reasoning should be stated in the notification to the R/W Project Coordinator.

If wide discrepancies exist between two appraisals on a single parcel, the review appraiser should call a conference with each appraiser to review the reasons for the discrepancies.

5.07 Approval of Appraisal Report

- a. When the appraisal reports are accepted by the review appraiser and the market valuation is determined, an Appraisal Review and Valuation Approval will be prepared (or Recommendation form by a fee reviewer). The form will be dated and signed by the review appraiser.

These forms will contain the Market Value approved/recommended by the reviewing appraiser for acquisition purposes. Any difference in value between the approved/recommended amount and the amount shown in any of the appraisals submitted on the parcel will be explained under "Remarks."

- b. The reviewing appraiser will indicate whether or not he has included an allowance in the approval and/or estimated Market Value for items compensable under State law but not eligible for federal reimbursement. If such items are included, the estimate should show the items and their indicated value.
- c. A Market Analysis and Proposed Offer Worksheet shall be reviewed by a R/W Manager. In instances where a narrative or summary report is received which values the acquisition at less than \$50,000, the Review Appraiser shall process the worksheet as noted in 5.07 (a).
- d. In instances where the approved / recommended value will equal or surpass \$500,000, notify the Project Coordinator as soon as possible so the appraisal can be forwarded to ADOT Administration for review. Follow up by faxing or providing a copy of the review appraiser's recommendation
- e. Upon completion of the appraisal review and completion of the Appraisal Review and Valuation Recommendation fee Review Appraisers will provide copies of the Recommendation form for each appraisal and submit to the R/W Operations Contract Unit in accordance with the assignment contract.
- f. Review Appraisers will obtain the appropriate signatures from the Assistant Chief R/W Agent and Chief R/W Agent as necessary.
- g. The appraisal review recommendation completed by a contract review will require the signature of the Assistant Chief Right of Way Agent, approving the recommended valuation on behalf of the Department.
- h. When the appraisal and/or the review valuation is \$400,000 or more, the appraisal review and valuation approval/recommendation form will require the signature of the

Deputy Chief Right of Way Agent, acknowledging that proper administrative procedures have been followed in the appraisal process.

- i. Upon completion of the appraisal review and the approval process, copies of Appraisal Review and Valuation Approval / Recommendation will be made for each of the appraisal copies and submitted to the unit secretary for processing.

5.08 Project Consistency

When providing appraisal reviews on a project with multiple parcels, project consistency shall be maintained. Project consistency records and maps shall be available upon request.

5.09 Miscellaneous Services

When required, review appraisers will furnish assistance or perform services to other Right of Way Sections. This assistance includes but is not limited to, assisting right of way agents with valuation proposals submitted by property owners, review excess land appraisals for Property Management Section.

Chapter 6 Red Letter Process

6.01 Purpose

The Purpose of the Red Letter Process is to limit the future escalation of right of way costs by notification from local public agencies to ADOT, of potential development plans within a quarter mile of established or proposed project corridors.

6.02 Procedure

The Red Letter Coordinator will do the following:

- a. Upon notification by any local public agency of impending development, the Red Letter Coordinator will review and analyze the proposed development project. If the area in question is affected by the highway project, correspondence is sent to the local agency explaining the affect the project will have on the area in question.
- b. Determine if there would be financial benefit to ADOT by entering into negotiations with the developer/property owner for acquisition.
- c. Notify the developer/owner of the interest in the property by ADOT for highway purposes and notify the Right of Way Acquisition Advisory Panel of the impending development for authorization.
- d. The final decision to acquire lies within the Advisory Panel Process, and ultimate approval or rejection.
- e. After the authorization has been obtained for acquisition, the Red Letter Coordinator will process parcel for appraisal and acquisition through the Project Management Supervisor for processing.

Chapter 7 Advance Acquisition Process

7.01 Purpose

The purpose of this chapter is to describe the additional functions and responsibilities of the Project Management Section in the advance acquisition of properties and local agency assistance.

7.02 Primary Function

The primary function of this process is to administer the advance acquisition of certain properties and assistance to local agencies.

7.03 Supplemental Function & Responsibilities

A Coordinator is responsible for providing information assistance to the public and local agencies, representing ADOT ("Department") at public hearings and open houses, processing requests for advance acquisition, processing requests for assistance and developing supporting data on advance acquisition, preparing reports and recommendations to management.

The following is a series of events that will generally take place in acquiring parcels by advance acquisition to **forestall development**:

- a. The Department is notified of a planned improvement to property located in the proximity of the established route plan. This is known as the Red Letter Process. Notification may be the result of the owner making application for a building permit or zoning change in which case the Local Public Agency ("LPA") would then notify the Department. (Red Letter Process)
- b. The property owner or his authorized representative may notify the Department directly that they are contemplating a substantial improvement and request consideration.

Generally, the request will be acknowledged within five days. If the notification resulted from an application to the LPA, copies of the correspondence with the property owners will go to the LPA.

- c. The request will be assigned to a Project Management Coordinator who will contact the property owner and make the necessary investigation. This will include verification that the proposed development is within the corridor, an estimate of the cost to acquire, and verification that the proposed development is within the corridor, and verification of ownership. The two latter items can be obtained from Appraisal Unit.
- d. The Project Management Coordinator will prepare a letter to the owner/developer forwarding the Advance Acquisition Request Form (*see Exhibit 11.06*) for signature and, if necessary, requesting additional support information, e.g., copies of plans to verify proposed development. The impact of the highway project on the property, i.e., a description of the area to be taken, will also be set forth in the cover letter. The Advance Acquisition Request form will also grant the Department permission to enter upon the

property for the purpose of inspection and soil testing to address environmental issues on nonresidential property.

- e. The Project Management Coordinator will prepare a memorandum to the Chief Right of Way Agent, outlining the results of the investigation and recommending advance acquisition. An estimate of the cost to acquire the property shall be attached to the memorandum. In addition, the working file containing the Advance Acquisition Request form will be submitted to the Chief Right of Way Agent for approval.
- f. The approved memorandum will be returned to the Project Management Coordinator and be made a part of the working file.
- g. When the Advance Acquisition Request is approved, the Project Management Coordinator will furnish copies to the owner or his authorized agent and the LPA, if involved.
- h. At any time after receiving the signed Advance Requisition Request form from the property owner, the Project Management Coordinator may simultaneously initiate internal processing as outlined in Procedures for Internal Processing of Advance Acquisitions, provided that there is sufficient evidence to expect that all necessary approvals will be granted.
- i. If the request is not approved at any stage of the process, the Project Management Coordinator will write a letter to the owner explaining the reason (with a copy to the LPA, if they are involved).
- j. The following are certain requirements and conditions that generally exist in order to consider advance acquisition based on hardship:
 - 1. A request must be received from the property owner setting forth the nature of the hardship.
 - 2. Advanced age, debilitating illness or injury, ambulatory or other major disability or handicap of a long-term nature, where present housing facilities are inadequate or cannot be maintained by the owner.
 - 3. Extraordinary conditions which pose a significant threat to health, safety or welfare of the owner or a member of the household.
 - 4. Mandatory transfer of employment.
 - 5. Loss of employment.
 - 6. The necessity of closing out an estate where insufficient funds are left in the estate to adequately cover debts to the estate.
 - 7. Change of income to the extent the property cannot be properly maintained.
 - 8. Pending mortgage foreclosure, tax sales, bankruptcy, etc.

9. Inability to dispose of property for a reasonable price due to the location within the corridor limits.
- k. The following procedure addresses advance acquisition of the properties based on **hardship situations**:
1. The initial contact is usually a telephone call or a written request indicating that the Department is interested in a purchase of property located in the proximity of an approved route plan. Written requests shall be acknowledged within five days.
 2. The request will be assigned to Project Management Coordinator who will contact the property owner and make the necessary investigation. This will include verification that the property is within the corridor, an estimate of the cost to acquire and verification of ownership. The two latter items can be obtained from Appraisal the Unit.
 3. If the owner has not furnished documentation to support the reasoning for the Department to purchase the property, the Project Management Coordinator shall advise of the need for documentation, such as:
 - (a) Doctor's statement which clearly and fully describes, from a medical viewpoint, why the patient should relocate.
 - (b) Real estate broker's certification that the subject property is not marketable and his reasons for this opinion. Must provide proof of attempt to sell, such as a copy of the listing, pictures of 'for sale' sign in yard, etc.
 - (c) Financial statement when financial difficulties are the reason for acquisition.
 - (d) Certified letter from employer when loss of employment or mandatory transfer is the reason for early acquisition.
 - (e) Court records and/or legal documents, if necessary, to support the request.
 - (f) Income tax returns.
 - (g) Any other documentation which supports the existence of a hardship situation.

Some of the documentation furnished by the property owner may be very personal. It is to be used for documentation only and shall be returned to the property owner upon verification. Any correspondence of a confidential nature shall be retained by the Project Management Coordinator as long as necessary, but shall be destroyed thereafter. Personal and/or confidential information shall not be incorporated into the permanent file.

- l. The Project Management Coordinator shall prepare a letter to the owner requesting that they sign an Advance Acquisition Request form. The Advance Acquisition Request form

will also grant the Department permission to enter upon the property for the purpose of inspection and soil testing to address environmental issues on nonresidential property. The agent shall request a parcel number from the Right of Way Plans Section.

- m. The Project Management Coordinator shall prepare a memorandum to the Chief Right of Way Agent, outlining the results of the investigation and recommending advance acquisition. An estimate of the cost to acquire the property shall be attached to the memorandum. In addition, the working file containing the Advance Acquisition Request form will be submitted to the Chief Right of Way Agent for approval.
- n. The approved recommendation will be returned to the Project Management Coordinator and be made a part of the working file.
- o. When the Advance Acquisition Request has final approval, the Project Management Coordinator will furnish a copy of the fully executed Advance Acquisition Request form and a letter of approval to the property owner.
- p. At any time after receiving the signed Advance Acquisition Request from the property owner, the Project Management Coordinator may simultaneously initiate internal processing as outlined in, Procedures For Internal Processing of Advance Acquisition, provided that there is sufficient evidence to expect that all necessary approvals will be granted.
- q. If the request is not approved at any stage of the process, the Project Management Coordinator will write a letter to the owner explaining the reason. All correspondence between the Department and property owner must be signed by the Project Management Coordinator.
- r. Procedures for Internal Processing of Advance Acquisition: The following are general procedures that apply to the advance acquisition process for both protective buying and hardship cases. The Project Management Coordinator shall:
 - 1. Prepare a memo to the Right of Way Plans Section advising that the parcel has been approved for advance acquisition. The Project Management Coordinator will also attach a copy of the approved request form, assessor's parcel information, case summary sheet and copy of the approved memo from the Chief Right of Way Agent.
 - 2. Prepare a memo to the Appraisal Unit advising that the parcel has been approved for advance acquisition. The Project Management Coordinator will also attach a copy of the approved request form and assessor's parcel information. This will initiate the appraisal process on the parcel to be acquired.
 - 3. Furnish a copy of the approval letter to Right of Way Acquisition Unit.
 - 4. Furnish a copy of the approval letter and a cost estimate to Right of Way Operations Accounting Unit.
 - 5. Upon receiving the file copy of the title report, remove all confidential material and incorporate all documentation into the file. Submit to the Records Center for permanent filing.

- s. Right of Way Project Management Coordinator will:
1. Upon receipt of the appraisal, the Delineation package and all necessary approvals, transmit the Acquisition file with the appraisal and legal documents in the usual manner to Right of Way Acquisition Sections.
 2. Monitor the transaction in the usual manner.
- t. Additional consideration of procedures for Time-Payment Advance Acquisition: There are additional procedures that must be followed when there is a time-payment proposal submitted for advance acquisition. Please address the following:
1. Proposals for acquisitions of right of way utilizing various time-payment methods must be initiated by the property owner or his authorized agent, although the State may suggest the use of time-payments. Details of the new program may be explained by ADOT employees, and employees may become involved in preparing the proposal. Processing of proposals will be the responsibility of the Right of Way Project Management Section.
 2. The first consideration for this type of acquisition will be to meet the established criteria for the Advance Acquisition program. To be considered, one of the two reasons for approving advance acquisition must be met: 1) To forestall development; 2) To alleviate hardship.
 3. Sufficient documentation must be supplied to substantiate the advance acquisition in either case. When considering acquisition to forestall development, the cost savings must be at a three to one ratio of improvements to land as vacant. That is, the property after development would have a value at least three times greater than the current land value.
 4. In case of a hardship, information must be provided to substantiate a severe financial or medical hardship with an indication that the sale of the property to the State will significantly impact alleviation of the hardship
 5. Properties proposed for acquisition, using a time-payment option, will be reviewed with the appropriate engineering staff to verify that the property will ultimately be needed for highway construction. Eligible properties will generally be located in a project section that is not scheduled for construction in the current Five-Year planning.
 6. The proposal made by the property owner must reflect an opportunity for the State to realize a significant financial advantage by purchasing the property now. Financial advantages to be considered include but are not limited to the following:
 - (a.) A purchase price that is advantageous to the State when considering present and future value.
 - (b.) Minimal or no down payment requirements

- (c.) No interest or interest rates significantly below market rate and optimally below the current bond rate.
 - (d.) A combination of the above listed that reflects an overall advantage to the State.
- 7. The current Five-Year Plan and revenue projections for additional years must reflect funds available to meet obligation requirements during the period of the time payment. Funding for retirement of the entire debt must be available and obligated within a ten-year period following the purchase. All amounts due will be paid in full prior to start of construction.
- 8. In the event the terms for acquisition cannot be accepted by the State or clear title cannot be delivered, we will not proceed to the condemnation process.
- 9. In the event, the terms proposed for acquisition are acceptable by the State, then final approval for the acquisition must be requested from the State Transportation Board along with the adoption of a relevant resolution.
- u. Additional considerations for Federal-Aid Projects: There are additional requirements that must be satisfied when there is federal participation in the purchase:
 - 1. If authorization to proceed with preliminary right of way activities has not been approved, a letter of request with an estimate of incidental costs will be sent to the Federal Highway Administration, Right of Way accounting will furnish the estimate. If approved, the FHWA will issue a Letter of Approval and/or Project Authorization form, granting authorization to proceed.
 - 2. The Coordinator will request an estimate of the value of the property, the cost of demolition, and relocation costs from Appraisals, Property Management Section and the Relocation Unit, Acquisition Section.
 - 3. A letter setting forth the above estimates and enclosing right of way plans/or parcel plat, along with the Environmental document, will be sent to FHWA by Right of Way Project Management. The letter shall explain why it is in the public interest to purchase the property in written request in advance and request authorization to proceed with acquisition. Copies of the signed Advance Acquisition Request form and any supporting information furnished by the property owner will also be submitted with the request.
 - 4. If the FHWA approves the advance acquisition, they will issue form authorizing the preparation of appraisals and granting tentative approval of acquisition subject to our submitting an acceptable Acquisition Stage Relocation Plan for the subject parcel.
 - 5. Right of Way Project Management will request that Acquisition Section prepare the relocation plan. When completed, it will be submitted to FHWA by Right of Way Project Management.
 - 6. FHWA will indicate its approval of acquisition by authorizing federal participation in the purchase.

Chapter 8 Local Agency Assistance Program

8.01 Purpose

The Arizona Department of Transportation has the obligation to aid cities and counties in obtaining maximum utilization of available federal funding for qualifying transportation projects. Federal Highway procedures require the State to administer Federal-aid projects within the rules and regulations required by federal legislation. In fulfilling these obligations, ADOT's goal is to encourage and assist cities and counties to develop the capacity to administer their own Right of Way Programs in conformance with state and federal standards.

8.02 Responsibilities

- a. The Local Agency Assistance Consultant Liaison shall maintain appropriate liaison with the Transportation Planning Division, Local Government Roads Services, Environmental Planning Services, and all Right of Way Sections in order to be thoroughly informed concerning planning, programming, development, and progress for all local agency projects and ADOT Projects involving R/W Consultants.
- b. In the context of this statement, a local agency generally will mean a city or a county. The term may also be applied to any other governmental subdivision, or non-profit entity, for which the State is required by law or contract to perform or monitor right of way services.
- c. It is necessary to recognize the complexity of right of way requirements for Federal-aid projects. Many cities and counties lack adequately trained personnel to perform the necessary technical tasks, and the infrequency of projects requiring right of way precludes the expenditure necessary to maintain a permanent staff.
- d. The Division recognizes its responsibility for providing, upon request, technical assistance as well as staff to accomplish the right of way needs for a given project. It is understood that Local Agencies will abide by the rules and regulations required by Federal legislation.

8.03 Prime Functions

The prime functions of Local Agency Assistance Consultant Liaison Staff are the following:

- a. Assist local agencies to plan and carry out right of way acquisition for federal-aid projects in conformance with applicable federal and state laws, regulations and procedures.
- b. Monitor local agency right of way acquisition on Federal-aid projects, including all stages of appraisal, negotiation and relocation, to insure to the greatest extent possible that such projects conform to federal requirements.
- c. Monitor consultant R/W activities on Federal-aid or state funded projects, including all phases of negotiation and relocation, to insure to the greatest extent that such projects conform to Federal and State requirements.

- d. Preliminary Information – The Liaison shall contact local agencies contemplating highway projects involving use of federal funds, and shall furnish information to such agencies regarding federal and state laws and regulations, inform them of state right of way services available, and explain the project monitoring and compliance certification procedure.
- e. Training Local Agency Personnel – The Unit shall coordinate training of local agency personnel in right of way matters through on-the-job training at the Right of Way Section State offices, or at the local agency offices.
- f. Introductory meeting shall be held to:
 - 1. Review regulatory & statutory material
 - 2. Review ADOT manual parts, forms
 - 3. Establish monitoring schedule
 - 4. Schedule progress meetings and delivery of status reports
 - 5. Establish Milestones at which to conduct evaluation of consultant (25%, 50%, 75%, Final)
- g. Qualification – The Unit shall inform local agencies of standards and procedures necessary to qualify right of way personnel, and shall assist such agencies in becoming qualified.
- h. Certification – The Unit shall report such information as is required for a Certification of Compliance.
- i. Procedures – The Unit may prepare sample forms for the guidance and possible use of local agencies. Subject to approval of the Chief of Right of Way Agent, the Unit may issue procedures for accomplishing Federal-aid right of way activities by local public agencies.

8.04 Types of Projects Covered

Types of projects covered include highways and non-highways projects are as follows:

- a. Highways – Projects on public streets and highways are the primary responsibility of the Highways Division, Arizona Department of Transportation, hereafter called Division. The responsibility falls into certain categories:
 - 1. Division performs work – the Division may be requested to perform right of way services for another agency. These services will be based on a contract with the other agency compensating the Division for the actual cost.
 - 2. Local Agency performs work – On certain federally funded projects the Division may determine that the local agency's staffing policies are adequate, and must determine that the procedures used by the agency are in accordance with the applicable laws and regulations. The division must monitor the local agency's work and certify that it was in full conformance with federal laws and regulations. The responsibility for monitoring right of way activities is delegated to the Local Agency Assistance Branch of Right of Way Project Management.

3. Consultant performs work – on Federal-aid or state funded projects, the division may retain a consultant to perform those services usually completed by ADOT staff (Acquisition or Relocation services). The Division must monitor the consultant's work and certify that it was in full conformance with federal laws and regulations.
- b. Non-Highways – The local Agency Assistance Consultant Liaison Unit normally will not monitor non-highway projects. However, should the need arise to do so, specific procedures for that particular project will be developed.

8.05 Relationship of Organization

Primary responsibilities of organizations covered by these procedures include:

- a. Federal Highway Administration – This agency has the responsibility for administering the Federal Highway Acts. They must be assured that the appropriate procedures and laws were complied with on any project on which federal funds participate. Toward this end, they require compliance assurances from ADOT, Highways Division.
- b. Arizona Department of Transportation – The Department has the responsibility for administering the transportation needs of the State. It also has the responsibility for coordinating the Federal-aid Program for cities and counties. As part of this coordination, the Department must review work done by the cities and counties and provide compliance assurances to the Federal Highway Administration.
- c. Highway Development Group – This Group is responsible for undertaking all the activities relating to the design and plans preparation for the highway facilities.
- d. Right of Way Section – This section has the responsibility for the acquisition of all property rights required for construction of state highway projects. It also has the responsibility for certifying right of way on all projects that are financed in whole or part by federal funds. Therefore, this Section must become involved in all local agency projects that are funded with federal funds.

8.06 Summary of Activities

A brief summary of activities performed by the Right of Way Section is given below. Actual activities performed vary depending upon the specific nature of a subject project.

- a. Information Sharing – The Right of Way Section has a duty to make known to all agencies the specific requirements for the various types of projects. With this information service, the Section has an obligation to assist other agencies in becoming educated in the proper procedures to be utilized in the appraisal, acquisition, relocation, and property management functions that are required on all federal-aid highway projects.
- b. Qualification – The Right of Way Section has the responsibility for advising local agencies how they can become qualified. It has responsibility for the review of these agencies' procedures to determine if they can be qualified, and the review of their assurance statements for adequacy.

- c. Monitoring – The Right of Way Section is obligated on certain projects to review other agencies work to determine whether appropriate procedures have been followed. This is to assure that federal funds will not be lost by these agencies. Where a consultant is employed by ADOT to perform R/W activities, work must be reviewed / monitored to assure compliance with state and federal laws and regulations.
- d. Certification – The Right of Way Section is required to certify local agency projects where Federal Highway Administration funds participate in project costs. This certification contains statements as to the rights of way acquired and procedures followed.
- e. Planning – The Right of Way Section should assist local agencies in planning their projects. This assistance is particularly necessary in regard to establishing proper lead-times for projects.
- f. Compliance Assurance – The Right of Way Section must establish specific means to enforce compliance with legal and policy requirements by local agencies. This is necessary to insure that federal funds are not lost.
- g. Contract Services – The Right of Way Section has the capability of performing service for other agencies. Upon local agency request, an Intergovernmental Agreement may be drafted for execution by both parties. This is particularly important where the agency cannot properly perform the services itself and may therefore lose the project without such assistance. The R/W section may also employ a consultant to provide the necessary acquisition or relocation function.
- h. Supervision of Other Personnel – From time to time the Local Agency Assistance Branch may request assistance in monitoring a specific function. The Branch will coordinate work of personnel assigned to perform monitoring duties.
- i. Legal basis for Providing Right of Way Services and Monitoring – Right of Way services and monitoring will be accomplished in accordance with applicable federal and state laws and regulations.

Chapter 9 Local Agency Qualification Procedures

9.01 Purpose

The purpose of this chapter is to present qualification procedures to be followed by the Arizona Department of Transportation in working with local agency.

9.02 Qualification Process

Qualification is the process whereby ADOT approves the local agency's policies and procedures for the right of way acquisition. ADOT is authorized to exercise this approval pursuant to 23CFR710.201(h). Qualified Status allows the local agency to perform acquisition-related activities for Federal-aid projects.

9.03 Qualification Procedures

In order to be qualified, each local agency must submit a request for an evaluation of its right of way qualifications and procedures.

- a. The ADOT Local Agency Assistance / Consultant Liaison Unit will:
 - 1. Arrange a meeting with the local agency and explain state and federal requirements and methods to be utilized by the local agency in obtaining qualification;
 - 2. Advise the local agency that they may adopt the State's policy and procedures or adopt their own in compliance with the Division;
 - 3. Advise the local agency that they will be subject to monitoring to insure conformance. It should be stressed that failure to conform to accepted policies and procedures could result in loss of reimbursement for all or part of a project.
- b. When the local agency desires to be qualified for Relocation Assistance Program work, the Local Agency Assistance Branch will evaluate the agency's procedures and staff.

9.04 Post Qualification Procedures

- a. Due to possible changes of personnel within local agencies, and various changes in federal and state laws and requirements, a review of all qualified agencies must be made periodically to determine if their staff and procedures are still adequate to perform in conformance with state and federal requirements. At the time of review, the local agencies can also be made aware of any changes in policies or procedures made since the date of the previous review.
- b. Local agencies that have not utilized their qualification in an extended period will be reviewed prior to their starting any new projects.
- c. Local agencies are required to notify the Right of Way Local Agency Assistance Branch of any policy changes affecting the procedures under which they were qualified.
- d. In the event a local agency is unable or unwilling to correct discrepancies or perform in accordance with their approved policy and procedure, an appropriate notice shall be directed to the agency informing them that they may lose their status as a qualified agency. Subsequent to this notification, if a local agency is still unable or unwilling to conform its procedures, a notice shall be directed to the agency informing them that they are no longer qualified to acquire right of way for federally funded projects. Changes in personnel within a consultant organization that is employed for the purposes of providing any of the various right of way services shall be addressed with the Right of Way Section. A review of those personnel changes and approval of those individuals shall be made prior to their beginning work on any of the contract services.

9.05 State Performs Right of Way Work for Local Agency

The Right of Way Section, Highways Division, ADOT, may perform right of way services for a local agency provided the local agency has executed an agreement with the Highways Division for the performance of such services. Services may include plans, titles, appraisal, acquisition and relocation.

9.06 Monitoring

Monitoring or review of local agency right of way work, is the process whereby ADOT assures that the local agency right of way practices are in accordance with applicable federal regulation and provide the documentation for certification. It will be State policy to monitor all local agencies highway projects whenever federal funding is included in any phase of such projects.

9.07 Monitoring Process

- a. Monitoring procedures cover the following elements:
 1. Concept Design Report – Upon receipt of a Concept Design Report, the Local Government Roads Section will forward a copy of the Right of Way Section for use by the Right of Way Local Agency Assistance Branch. The branch will contact the local agency, explain the monitoring program, and offer assistance in right of way planning and field review to identify and minimize potential problems. Following the initial contact, the local agency should notify the Local Agency Assistance Branch at each stage of right of way activity so a review can be made. The Branch shall maintain close liaison with the local agency and shall conduct monitoring reviews or coordinate such review by functional representatives.
 2. Functional Areas to be Monitored include the following:
 - (a) Right of Way Plans
 - (b) Appraisal
 - (c) Acquisition
 - (d) Relocation
 - (e) Property Management
- b. Number of parcels to be monitored – The number of parcels monitored on a local agency project will be determined by the Right of Way Local Agency Assistance Branch. If any agency has a good record, and minimum monitoring reveals no substantial variance with applicable regulations, no further monitoring on the project is needed. If the agency has a poor record, or the amount of monitoring accomplished reveals substantial non-compliance or repeated error, further monitoring should be done, even on all parcels.
- c. Degree of Monitoring – Monitoring should be sufficient to insure that the overall federal and state procedures are met. The specific details may be reviewed only to the extent they affect the product. This means that general procedures will be in compliance without necessarily being the same as those used by the State. The monitoring will be based on conformance to the procedures submitted by the agency in becoming qualified. ADOT Acquisition and Relocation Manuals may be provided for use if directed by Brach.

- d. Monitoring by function – The review shall be on a continuous basis to insure that each right of way function is performed properly. This will insure that the local agency or consultant will have sufficient time to take corrective action at the proper stage. The review shall include an examination of all major functions involved in the right of way acquisition. The primary emphasis of this monitoring will involve appraisal, acquisition and relocation assistance. When the certification is obtained based on Right of Entry or an Order for Immediate Possession, the monitoring shall continue until all rights have been acquired.
- e. Monitoring Documentation – A compliance check sheet, relating to the specific right of way function being monitored, will be completed for each parcel selected for review and retained in the project file. Information on any work required correction shall be communicated in writing to the local agency with follow up procedures to insure that the correction has been accomplished.
- f. Monitoring Information and Education:
 - 1. Information – The Right of Way Local Agency Assistance Branch will notify all local agencies of the specific requirements that apply to acquisition of rights of way on federally funded projects. The notification will be in sufficient detail and form as to assist local agencies to properly interpret state and federal requirements. The local agencies will be informed that the State will provide necessary assistance to them in order to understand or implement the proper procedures.
 - 2. Education – One of the goals of monitoring is to educate the local agencies. As the agency performs right of way functions in close liaison with the State, they will gain expertise and knowledge of the specific procedural requirements.

9.08 Certification of Compliance

- a. Following completion of right of way acquisition, relocation and site clearance, the local agency will complete a Right of Way Certification and return it to the Supervisor of the Right of Way Local Agency Assistance Branch, certifying that right of way has been acquired and relocation has been performed in accordance with applicable laws.
- b. The Right of Way Local Agency Branch Supervisor to Endorse – The branch supervisor will, by endorsement or memo addressed to the Chief Right of Way Agent, indicate approval or disapproval of the local agency certification. If the branch supervisor recommends disapproval, he shall prepare a letter addressed to the appropriate local agency official stating the reasons for the disapproval.
- c. Approved Certification Forwarded – After the local agency certification is approved by the Chief Right of Way Agent, an appropriate certification will be prepared and submitted to FHWA through Highways Division channels.
- d. Deficient Certification Returned – In the event deficiencies are found resulting in denial of certification, Right of Way Management will submit an appropriate letter to the local agency notifying them of such denial and enumerating the deficiencies. The Right of Way Local Agency Assistance Branch will then contact the local agency and offer to assist in correcting those deficiencies.

9.09 Distribution of Directives

The Local Agency Assistance Branch will distribute, to appropriate local agency officials, copies of applicable laws, regulations and directives.

Chapter 10 Monitoring Procedures for Consultants

10.01 Purpose

The purpose of this chapter is to present monitoring procedures to be followed by the Arizona Department of Transportation when working with private Right of Way consulting firms.

10.02 Monitoring

Monitoring is the process whereby ADOT assures that private consultant right of way practices are in accordance with Federal regulations and ADOT policies and procedures. It will be Sate policy to monitor all private Right of Way consultant contracts.

10.03 Monitoring Procedures

Monitoring procedures cover the following elements:

a. Pre-qualification Considerations

1. ADOT will verify consultants past successful experience. This will allow the agency to develop a realistic appraisal of the consultants past work history for similar projects.
2. ADOT will investigate current projects the consultant is involved with in order to make a realistic judgment as to the availability of skilled management and staff.

b. Pre-project Indoctrination

1. ADOT will hold a pre-project orientation meeting with the consultant to identify the scope of the project, the type of Right of Way functions to be performed and to explain goals and expectations as well as monitoring procedures.
2. ADOT will provide the consultant with current ADOT policy and procedure information and will brief the consultant on ADOT philosophy concerning interpretation of the Uniform Acquisition and Relocation regulations.
3. ADOT will acquaint the consultant with standardized ADOT documents and forms and will provide a sample packet for the consultants use.

c. In-Service Coordination

The unit is responsible for monitoring those functions for which the Right of Way Section has contracted: including but not limited to acquisition and relocation activities. Monitoring functions will be performed on a continuous basis to insure that the work is properly performed. Monitoring functions include the following:

1. Reviewing all acquisition packages submitted for payment.
 2. Reviewing all relocation claims submitted for payment.
 3. Reviewing all relocation parcel files for finalization.
- d. Monitoring Documentation – Information on any work that requires correction shall be communicated in writing to the consultant with follow up procedures to insure that the correction has been accomplished. Changes in key personnel within a consultant organization that is employed for the purpose of providing any of the various right of way services shall be addressed with Right of Way Section and noted by unit personnel as to the affect on the contract.
- e. Consultant Evaluation
- f. The consultant evaluation program is a vehicle to maintain the lines of communication between the Consultant Liaison Unit and the consultant. A positive approach to the consultant evaluation program assures that:
1. Project completion dates are attainable
 2. Potential problems that may impact a project are resolved in a timely manner.

The consultant evaluation program is designed to be reciprocal. The consultant is evaluated at major milestones during the life of the contract and consultant has the opportunity to evaluate the Consultant Liaison Unit. Generally, evaluation will begin 30 days after the consultant receives the acquisition or relocation assignment. Additional evaluations will be performed at the midway point of the project and again when the contract is completed. All evaluations will be in writing and retained in the project file.

Chapter 11 Exhibits

The following Exhibits are intended for reference purposes. Some of the Exhibits have been reduced in size in order to include them in this manual. [Click Here](#) to view the Exhibits.

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